United Nations

Report of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters related to the Security Council

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Report on the progress of the work of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters related to the Security Council

Chapter I

Introduction

1. At its forty-eighth session, the General Assembly decided, in its resolution 48/26 of 3 December 1993, to establish an Open-ended Working Group to consider all aspects of the question of increase of the membership of the Security Council and other matters related to the Security Council. The full text of the resolution is reproduced in annex I to the present report.

2. The Open-ended Working Group began its deliberations in January 1994. The mandate of the Working Group was extended by the General Assembly at its forty-eighth through fifty-first sessions.[1] Reports on the progress of its work were submitted by the Working Group to the General Assembly at its forty-eighth, forty-ninth, fiftieth and fifty-first sessions.[2]

3. On 15 September 1997, in its decision 51/476, the General Assembly decided that the Open-ended Working Group should continue its work and submit a report to the Assembly before the end of the fifty-second session, including any agreed recommendations. The present report is prepared and submitted pursuant to that decision.

Chapter II

Proceedings of the Open-ended Working Group during the fifty-second session of the General Assembly

4. During the fifty-second session of the General Assembly, the Open-ended Working Group held 56 meetings, from 26 November 1997 to 24 August 1998. The President of the General Assembly, Ambassador Hennadiy Udovenko (Ukraine), served as Chairman of the Working Group.

5. At its first meeting, on 26 November 1997, Ambassador Wilhelm Breitenstein (Finland) and Ambassador Asda Jayanama (Thailand) were reappointed as Vice-Chairmen of the Working Group.

6. During the fifty-second session of the General Assembly, the Working Group held six substantive sessions. During these sessions, delegations made several written as well as oral proposals related to the issues discussed. Reference was also made to proposals and/or position papers submitted during previous sessions and annexed to previous reports of the Working Group. All proposals remain on the table. The Working Group affirmed that the work of the General Assembly on Security Council reform should be conducted in conformity with the relevant Assembly resolutions, fully respecting the need for transparency and open-endedness.

First substantive session

7. The first substantive session was held from 3 to 13 February 1998. At that session, the Open-ended Working Group adopted its programme of work (A/AC.247/1998/CRP.5; see annex II). It had before it the following conference room papers:

- A/AC.247/1998/CRP.1, containing the response of the Office of Legal Affairs, dated 11 August 1997, to the request by Egypt for a study on the legal basis of the veto (see annex XII);
- A/AC.247/1998/CRP.2, "Letter dated 27 January 1998 from the Permanent Representative of Bahrain in his capacity as Chairman of the Group of Arab States for the month of January 1998 addressed to the President of the General Assembly", outlining the Group's position on the expansion and composition of the Security Council (see annex XXI);
- A/AC.247/1998/CRP.3, "Letter dated 28 January 1998 from the Permanent Representative of Egypt addressed to the President of the General Assembly", concerning the study on the legal basis of the veto (see annex XIII).

8. In addition, the Working Group had before it a conference room paper prepared by the Bureau of the Open-ended Working Group, A/AC.247/1998/CRP.4,* on the first item on its programme of work, "Working methods of the Security Council and transparency of its work" (see annex III). The conference room paper was prepared on the basis of discussions during the fifty-first session of the General Assembly, as well as views expressed

* All conference room papers prepared by the Bureau of the Open-ended Working Group were submitted on its own responsibility for the purpose of summarizing proposals, both written and oral, made during the deliberations of the Working Group. In no way do they attempt to reflect the level of support by delegations for the various proposals contained therein.

by Member States during the general debate of the fifty-second session of the General Assembly and on agenda items 59 and 11.

Second substantive session

9. The Open-ended Working Group held its second substantive session from 23 February to 13 March 1998, and continued its discussion on working methods of the Security Council and transparency of its work on the basis of a revised conference room paper prepared by the Bureau (A/AC.247/1998/CRP.4/Rev.1;* see annex IV). The following conference room papers regarding the relationship between the Security Council, the General Assembly and the general membership of the United Nations were also submitted:

- A/AC.247/1998/CRP.6, entitled "Proposed amendments to document A/AC.247/1998/CRP.4, submitted by Italy, dated 23 February 1998" (see annex VI);
- A/AC.247/1998/CRP.7, entitled "Proposed amendments to document A/AC.247/1998/CRP.4, submitted by the Republic of Korea, dated 27 February 1998" (see annex VII).

Third substantive session

10. During its third substantive session, held from 21 April to 8 May 1998, the Open-ended Working Group began consideration of the second item on its programme of work, "Decision-making in the Security Council, including the veto". That discussion was based on section X of annex IX to the report of the Working Group to the General Assembly at its fifty-first session.[3] Following that discussion, the Bureau prepared a revised version contained in document A/AC.247/1998/CRP.10* (see annex X), which, after its consideration, was revised as A/AC.247/1998/CRP.10/Rev.1* (see annex XI). The following conference room papers on the topic were also submitted:

- A/AC.247/1998/CRP.8, entitled "Proposals on decision-making in the Security Council and the veto right, submitted by Germany, dated 21 April 1998", on voting rights of the existing permanent members (see annex XIV);
- A/AC.247/1998/CRP.9, entitled "Proposals on decision-making in the Security Council and the veto right, submitted by Germany, dated 22 April 1998", on voting rights of the new permanent members (see annex XXII);
- A/AC.247/1998/CRP.11, entitled "The veto as a voting instrument in the Security Council", proposal submitted by the former Yugoslav Republic of Macedonia (see annex XV).

11. The Working Group then began consideration of item three of its programme of work, "Expansion of the Security Council", based on a conference room paper prepared by the Bureau, A/AC.247/1998/CRP.12,* entitled "Sets of outstanding issues related to the expansion of the Security Council" (see annex XVIII).

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* All conference room papers prepared by the Bureau of the Open-ended Working Group were submitted on its own responsibility for the purpose of summarizing proposals, both written and oral, made during the deliberations of the Working Group. In no way do they attempt to reflect the level of support by delegations for the various proposals contained therein.

Fourth substantive session

12. During its fourth substantive session, held from 26 to 29 May 1998, the Open-ended Working Group continued its consideration of the third item on its programme of work, "Expansion of the Security Council". Egypt, in its capacity as coordinator of the Movement of Non-Aligned Countries, informed the Working Group about the Ministerial Meeting of the Coordinating Bureau of the Movement of Non-Aligned Countries, held from 19 to 20 May 1998 at Cartagena de Indias, Colombia, as regards the expansion of the Security Council. The relevant parts of the Cartagena communiqué were subsequently distributed during the sixth substantive session as conference room paper, A/AC.247/1998/CRP.21, entitled "Letter transmitted by Egypt in its capacity as coordinator of the Movement of Non-Aligned Countries: paragraphs related to the reform of the Security Council which appeared in the final communiqué of the Ministerial Meeting of the Coordinating Bureau of the Movement of Non-Aligned Countries [original paragraphs 53 through 65] held in Cartagena de Indias, Colombia, on 19 and 20 May 1998" (see annex XXXI).

13. The Working Group also began consideration of the fourth item on its programme of work, "Periodic review of the enlarged Security Council", on which the Bureau had prepared conference room paper A/AC.247/1998/CRP.13,* entitled "Summary of proposals made on the periodic review of the enlarged Security Council" (see annex XXV).

14. The Working Group further began consideration of the fifth item on its programme of work, "Majority required for taking decisions on Security Council reform", on which the Bureau had prepared conference room paper A/AC.247/1998/CRP.14* with the same title (see annex XXVIII). Hungary, in its capacity as Chairman of the Group of Eastern European States for the month of May 1998, also submitted the following conference room paper:

– A/AC.247/1998/CRP.15 entitled, "Joint position paper of the States members of the Group of Eastern European States eligible for non-permanent membership in the Security Council: the matter of allocation of one additional non-permanent seat for this Group in the enlarged membership of the Security Council" (see annex XXIII).

Fifth substantive session

15. At its fifth substantive session, held from 15 to 26 June 1998, in relation to the third item of the programme of work, "Expansion of the Security Council", Senegal, on behalf of the Group of African States, informed the Open-ended Working Group about the decision taken by the Assembly of Heads of State and Government of the Organization of African Unity at its thirty-fourth session, held from 8 to 10 June 1998, in Ouagadougou. That decision was subsequently circulated as conference room paper A/AC.247/1998/CRP.16 and Corr.1 entitled, "Decision of the Assembly of Heads of State and Government of the Organization of African Unity on the procedure for rotation of the two permanent seats claimed by Africa, transmitted by Senegal" (see annex XXIV).

16. During this session the Working Group reverted to the first item on its programme of work, "Working methods of the Security Council and transparency of its work", and discussed document A/AC.247/1998/CRP.4/Rev.2,* prepared by the Bureau (see annex V).

* All conference room papers prepared by the Bureau of the Open-ended Working Group were submitted on its own responsibility for the purpose of summarizing proposals, both written and oral, made during the deliberations of the Working Group. In no way do they attempt to reflect the level of support by delegations for the various proposals contained therein.

17. It also continued consideration of the fifth item on its programme of work, "Majority required for taking decisions on Security Council reform".

18. The Working Group then reverted to item two of its programme of work, "Decision-making in the Security Council, including the veto". In this connection, the following conference room papers were submitted:

- A/AC.247/1998/CRP.17, entitled "Proposals on decision-making in the Security Council, including the veto, submitted by Australia, Austria, Belgium, Bulgaria, the Czech Republic, Estonia, Hungary, Ireland, Portugal and Slovenia, dated 25 June 1998" (see annex XVI);
- A/AC.247/1998/CRP.19, entitled "Proposals on the issue of the veto submitted by Chile, dated 26 June 1998" (see annex XVII).

19. With regard to item three of its programme of work discussed at the fourth substantive session, the following conference room paper was submitted:

- A/AC.247/1998/CRP.18, entitled "Proposed amendment to document A/AC.247/1998/CRP.13 on the periodic review of the enlarged Security Council, submitted by the Republic of Korea, dated 25 June 1998" (see annex XXVII).

Sixth substantive session

20. During the sixth substantive session, held from 9 July to 7 August 1998, the Open-ended Working Group revisited items three, four and five of its programme of work, namely, "Expansion of the Security Council"; "Periodic review of the enlarged Security Council"; and "Majority required for taking decisions on Security Council reform". In this connection, it considered the following conference room papers submitted by the Bureau to reflect proposals presented during previous sessions:

- A/AC.247/1998/CRP.12/Rev.1,* entitled "Sets of outstanding issues related to the expansion of the Security Council" (see annex XIX);
- A/AC.247/1998/CRP.12/Rev.1/Add.1,* entitled "Summary of the proposals made on the issue of the extension of the veto to the new permanent members" (see annex XX);
- A/AC.247/1998/CRP.13/Rev.1,* entitled "Summary of proposals made on the periodic review of the enlarged Security Council" (see annex XXVI);
- A/AC.247/1998/CRP.14/Rev.1,* entitled "Summary of the proposals on the issue of the majority required for taking decisions on Security Council reform" (see annex XXIX).

21. With regard to the first item on its programme of work, discussed at the fifth substantive session, the following conference room paper was also submitted:

- A/AC.247/1998/CRP.20, entitled "Proposed amendments to document A/AC.247/1998/CRP.4/Rev.2, on the working methods of the Security Council, transparency of its work, as well as its decision-making process, submitted by the Republic of Korea, dated 9 July 1998" (see annex VIII).

* All conference room papers prepared by the Bureau of the Open-ended Working Group were submitted on its own responsibility for the purpose of summarizing proposals, both written and oral, made during the deliberations of the Working Group. In no way do they attempt to reflect the level of support by delegations for the various proposals contained therein.

22. During this sixth substantive session the following conference room papers were also submitted:

- A/AC.247/1998/CRP.22, entitled "Proposal submitted by the Solomon Islands, dated 16 July 1998, concerning access to the archives and records of the Security Council and to the high-level members of the Secretariat serving the Security Council" (see annex IX);
- A/AC.247/1998/CRP.23 and Corr.1, entitled "Paper transmitted by Peru to the Open-ended Working Group, dated 17 July 1998: majority required for the adoption of decisions on the question of equitable representation on and increase in the membership of the Security Council and other matters related to the Security Council and convening of a special session of the General Assembly to decide on this issue, among other matters" (see annex XXX).

23. At this session the Working Group also considered its report to the General Assembly.

Chapter III
Recommendations

24. At its 56th meeting, on 24 August 1998, the Open-ended Working Group concluded its work for the current session of the General Assembly and decided to recommend that consideration of this item be continued at the fifty-third session of the Assembly, building upon the work done during previous sessions. To that end, the Working Group recommends to the General Assembly the adoption of the following draft decision:

> The General Assembly, having considered the report of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters Related to the Security Council,[4] established pursuant to its resolution 48/26 of 3 December 1993:
>
> (a) Takes note of the report of the Working Group on its work during the fifty-second session of the General Assembly;
>
> (b) Decides that the Working Group should continue its work, taking into account the progress achieved during the forty-eighth, forty-ninth, fiftieth, fifty-first and fifty-second sessions, as well as the views to be expressed during the fifty-third session of the Assembly, and submit a report to the Assembly before the end of the fifty-third session, including any agreed recommendations.

Notes

[1] General Assembly decisions 48/498, 49/499, 50/489 and 51/476.

[2] *Official Records of the General Assembly, Forty-eighth Session, Supplement No. 47* (A/48/47); ibid., *Forty-ninth Session, Supplement No. 47* (A/49/47); ibid., *Fiftieth Session, Supplement No. 47* (A/50/47); and ibid., *Fifty-first Session, Supplement No. 47* (A/51/47).

[3] *Official Records of the General Assembly, Fifty-first Session, Supplement No. 47* (A/51/47).

[4] Ibid., *Fifty-second Session, Supplement No. 47* (A/52/47).

Annex I

General Assembly resolution 48/26 of 3 December 1993

Question of equitable representation on and increase in the membership of the Security Council

The General Assembly,

Recalling its resolution 47/62 of 11 December 1992,

Noting with appreciation the report of the Secretary-General which reflected the views of a number of Member States on the agenda item entitled "Question of equitable representation on and increase in the membership of the Security Council",

Recalling also the relevant provisions of the Charter of the United Nations, especially Article 23,

Recalling further that the Members confer on the Security Council primary responsibility for the maintenance of international peace and security and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf,

Recognizing the need to review the membership of the Security Council and related matters in view of the substantial increase in the membership of the United Nations, especially of developing countries, as well as the changes in international relations,

Bearing in mind the need to continue to enhance the efficiency of the Security Council,

Reaffirming the principle of the sovereign equality of all Members of the United Nations,

Acting in accordance with the purposes and principles of the Charter,

Mindful of the importance of reaching general agreement,

1. *Decides* to establish an Open-ended Working Group to consider all aspects of the question of increase in the membership of the Security Council, and other matters related to the Security Council;

2. *Requests* the Open-ended Working Group to submit a report on the progress of its work to the General Assembly before the end of its forty-eighth session;

3. *Decides* to include in the provisional agenda of its forty-ninth session an item entitled "Question of equitable representation on and increase in the membership of the Security Council and related matters".

Annex II

Programme of work of the Open-ended Working Group during the fifty-second session of the General Assembly*

1. Working methods of the Security Council and transparency of its work.
2. Decision-making in the Security Council, including the veto.
3. Expansion of the Security Council.
   - The total size of the enlarged Security Council.
   - Increase of permanent membership (including the issues of extension of the veto to the new permanent membership and permanent regional representation).
   - Increase of non-permanent membership (including the possibility of an increase only in this category of membership).
4. Periodic review of the enlarged Security Council.
5. Majority required for taking decisions on Security Council reform.
6. Other matters.
7. Report of the Open-ended Working Group to the General Assembly.

* Previously issued as A/AC.247/1998/CRP.5.

Annex III

Conference room paper submitted by the Bureau of the Open-ended Working Group: working methods of the Security Council, transparency of its work, as well as its decision-making process*

I. Introduction

1. The Open-ended Working Group achieved substantial progress during the fifty-first session of the General Assembly in its discussions on the working methods and transparency of the Security Council. The results of the debates are reflected in the negotiating paper of the Movement of Non-Aligned Countries on cluster II issues,[1] which was first submitted to the Working Group in March 1997, and in conference room papers 3 and 8 of the Bureau,[2] prepared on the basis of the debates of the Working Group on the negotiating paper submitted by the Movement of Non-Aligned Countries. During its deliberations in July 1997, the Working Group also discussed in detail the working methods and transparency of the Council based on part B of conference room paper 8, but no new conference room paper was prepared as a result of the discussions at that time. The present document attempts to incorporate the views expressed in those discussions.[3]

II. Relationship between the Security Council, the General Assembly and the general membership of the United Nations

A. Meetings of the Security Council

2. Suggested improvements to the present practice:[4]

(a) The Security Council should, as a rule, conduct its business in public;

(b) The Security Council should hold open and substantive orientation debates at the beginning of the consideration by the Council of any substantive matter;

(c) Open public meetings should also be held, as appropriate, when special envoys of the Secretary-General or representatives of United Nations agencies are reporting to the Council;

(d) In certain cases, when it so decides, the Security Council may meet in private and/or conduct its business in informal consultations.

3. Proposed form of institutionalization:

Amend rule 48 of the provisional rules of procedure of the Security Council accordingly.

B. Programme of work of the Security Council

4. Suggested improvements to the present practice:

* Previously issued as A/AC.247/1998/CRP.4.

(a) In addition to the tentative forecast of the monthly programme of work of the Security Council already distributed to the membership, the provisional schedule of work of the Security Council for the month and its updated versions should also be circulated as soon as they are available;

(b) The provisional agenda, including expected action (e.g., decisions on draft resolutions, reports, exchange of views, etc.) to be taken at Security Council meetings and an annotated agenda for informal consultations of the whole should be included in the *Journal of the United Nations*.

5. Proposed form of institutionalization:

Include this arrangement in the provisional rules of procedure.

C. Briefings by the President of the Security Council to non-members, availability of draft resolutions and summaries of informal consultations

6. Suggested improvements to the present practice:

(a) The practice followed by the President of briefing non-members of the Security Council should be continued on a regular basis. These briefings should be arranged immediately after informal consultations. They should provide substantive and detailed information to non-members of the Council. Interpretation should be provided for these briefings. The President of the Security Council should decide whether written records of the briefings should also be distributed to non-members of the Council. If written records of the briefings are to be provided, they should also be transmitted to the Permanent Missions to the United Nations through electronic mail;

(b) The President of the Security Council should make draft resolutions and draft presidential statements available as soon as they become the basis for informal consultations of the Council, or earlier if authorized by the author of the draft. If they are not distributed, the President should provide information on the existence of the draft resolutions to the Council;

(c) Information about consultations with troop-contributing countries, as well as briefings given to those countries, should be included in the briefings of the President of the Security Council immediately after such consultations have taken place;

(d) Briefings should be announced in the *Journal of the United Nations*.

7. Proposed form of institutionalization:

Add an appropriate rule to the provisional rules of procedure and/or adopt a presidential statement on the matter and annex it to the provisional rules of procedure.

D. Consultations with troop-contributing countries

8. Suggested improvements to the present practice:

(a) Consultations between the members of the Security Council and troop-contributing countries, both current and potential, should be held promptly and on a regular basis before and during the decision-making process on the establishment, conduct and termination of peacekeeping operations, including the renewal and change of their mandates. The Secretariat should be represented at and participate in such consultations;

(b) Consideration should be given to inviting contributors of civilian components and other countries affected by and/or involved in multifaceted operations;

(c) Consultations between the members of the Security Council and the troop-contributing countries should be convened by the President of the Security Council upon request from a troop-contributing country;

(d) The Security Council should make full use of the proposals and/or information received in the consultations with the troop-contributing countries.

9. Proposed form of institutionalization:

The Security Council should adopt a presidential statement on these new measures, which should be annexed to the provisional rules of procedure.

E. Report of the Security Council to the General Assembly

10. Suggested improvements to the present practice:

(a) Each President of the Security Council should give an analytical assessment of the work of the Council during the month under his/her Presidency to be attached to the report of the Council to the General Assembly. The analytical assessments should also be distributed to the non-members of the Council immediately after they are issued by the President of the Council;

(b) The annual report of the Security Council to the General Assembly should give a substantive and analytical account of the Council's work, and it should be made available to the General Assembly before the beginning of its annual general debate;

(c) The Security Council should, through an appropriate procedure or mechanism, update the General Assembly on a regular basis on the steps it has taken or is contemplating with respect to improving its reporting to the Assembly, including improvements in its working methods and transparency;

(d) The Security Council should include in its report information on requests received under Article 50 of the Charter of the United Nations and actions taken by the Council thereon;

(e) The Security Council should submit special reports to the General Assembly for its consideration as stipulated in Article 24, paragraph 3, of the Charter;

(f) The Security Council should, in preparing its annual report to the General Assembly, fully take into account resolution 51/193 of 17 December 1996.

11. Proposed form of institutionalization:

Add a new rule or annex these provisions to the provisional rules of procedure.

F. Participation of non-members

12. Suggested improvements to the present practice:

(a) Meetings of the Security Council and informal consultations of the whole:

(i) The Security Council should conduct consultations with countries most affected by decisions of the Council more often;

(ii) The Security Council should invite non-members of the Security Council to participate in the informal consultations of the Council under similar arrangements, as stipulated in Articles 31 and 32 of the Charter;

(b) Informal meetings of the members of the Security Council:

The members of the Security Council should have more frequent and broader recourse to the "Arria formula", whereby members of the Security Council, on the initiative of a Council member, can hear views of other Member States.

13. Proposed form of institutionalization:

As far as meetings of the Security Council and informal consultations of the whole are concerned, amend rule 37 of the provisional rules of procedure to allow participation of non-members in informal consultations, as well as to allow fuller participation of non-members in open meetings; other meetings of the members of the Security Council will be left to the discretion of the members because they are not governed by the Council's provisional rules of procedure.

G. Meetings of the Security Council in pursuance of Article 35 of the Charter of the United Nations

14. Suggested improvements to the present practice:

The rules of procedure of the Security Council should include a reference to the fact that the Security Council should meet promptly to consider any request by a Member State for the convening of an urgent meeting of the Security Council to investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security. The President of the Council should circulate such requests promptly as a document of the Council. The rules of procedure should require that the President convene a meeting of the Council to hear the Member in question. The Council should immediately decide whether to pursue the matter.

15. Proposed form of institutionalization:

Amend rule 3 of the provisional rules of procedure of the Security Council.

H. Consultations pursuant to Article 50 of the Charter

16. Suggested improvements to the present practice:

(a) The rules of procedure of the Security Council should include a provision or a decision by the Council operationalizing the right, contained in Article 50 of the Charter, of Member States to consult the Council with regard to a solution to problems arising from their implementation of preventive or enforcement measures imposed by the Council, taking into consideration also Article 49 of the Charter;

(b) The Security Council should establish a mechanism to provide relief to affected States under Article 50 of the Charter on the basis of automaticity of application.

17. Proposed form of institutionalization:

Add an appropriate rule to the provisional rules of procedure of the Security Council

I. Mechanism to alert non-members of the Security Council of unscheduled or weekend meetings

18. Suggested improvements to the present practice:

The Secretariat should establish a voice recording or another appropriate mechanism for alerting non-members of the Security Council of unscheduled or emergency meetings of the Council during nights, weekends or holidays.

19. Proposed form of institutionalization:

To be implemented by the Secretariat as soon as possible.

J. Consultations between the President of the Security Council and the President of the General Assembly

20. Suggested improvements to the present practice:

The Presidents of the Security Council and the General Assembly should have regular exchanges of views and consultations at least every month and, in the event of international crises or urgent developments, more frequently. Other interested parties, such as the members of the Bureau of the General Assembly, could be invited by both Presidents.

21. Proposed form of institutionalization:

Include in the provisional rules of procedure.

III. Subsidiary organs of the Security Council

22. Suggested improvements to the present practice:

(a) Sanctions committees:

(i) Decisions and/or those parts of the summaries of the proceedings of the sanctions committees which do not compromise the confidentiality of the work of the committees should also be made available to non-members of the Security Council;

(ii) Annex II to resolution 51/242 of 15 September 1997, entitled "Question of sanctions imposed by the United Nations", should be fully taken into account/implemented by the Council;

(b) Other subsidiary organs:

Subsidiary organs of the Council established in pursuance of Article 29 of the Charter should be more transparent in their proceedings (i.e., announcements of the meetings in the *Journal*, briefings to non-members, etc.).

23. Proposed form of institutionalization:

Insert an appropriate rule in chapter IX of the provisional rules of procedure entitled "Publicity of meetings, records".

IV. Relationship between the Security Council and other principal organs of the United Nations

A. International Court of Justice

24. Suggested improvements to the present practice:

The Security Council, in accordance with the relevant provisions of the Charter, should take more frequent recourse to the International Court of Justice, in particular by seeking its advisory opinions.

V. Relationship between the Security Council and regional arrangements, organizations and agencies

25. Suggested improvements to the present practice:

(a) In its relations with regional arrangements, organizations and agencies, the Security Council should fully take into account/implement the provisions of General Assembly resolution 49/57 of 9 December 1994 and the results of the Agenda for Peace sub-group on coordination (see annex I, entitled "Coordination", to resolution 51/242) related to this matter;

(b) Regional organizations, agencies and arrangements should be consulted, at appropriate levels, on matters affecting the maintenance of international peace and security in accordance with Chapter VIII of the Charter and the relevant mandates of regional organizations concerned.

VI. Decision-making in the Security Council, including the veto

A. Veto

26. Suggested improvements to the present practice:

(a) The Charter should be amended so that:

(i) As a first step, the veto should apply only to action taken under Chapter VII;

(ii) A single veto will not prevent action on a proposal that has achieved the required majority;

(iii) The right of veto should be subject to suspension on specific occasions, as defined by a prescribed qualified majority of the General Assembly;

(iv) Articles 4, paragraph 2, 5, 6, 27, 97, 108 and 109 are changed with a view to limiting the application of the veto;

OR/AND

(b) The Security Council OR the General Assembly should:

(i) Update the annex to General Assembly resolution 267 (III) of 14 April 1949, containing a list of decisions deemed procedural;

(ii) Provide a legal definition of what constitutes a procedural matter or clear criteria as to what is of a procedural nature (Article 27, paragraph 2, of the Charter);

(c) The Security Council should:

(i) Explore further the proposal for a provision enabling a permanent member to cast a negative vote without that vote constituting a veto if the member so declares;

(ii) Explore further the possibility for unilateral declarations by the permanent members containing a commitment not to resort to the veto.

27. Proposed form of institutionalization:

Amend the Charter and/or include in the provisional rules of procedure of the Security Council.

B. Action threshold

28. If the present action threshold is maintained at approximately the present level (60 per cent), the number of affirmative votes required for a decision would be: in a Council of 24: 14, in a Council of 25: 15 and in a Council of 26: 16. Proposals for changing the present action threshold have been made.

29. Proposed form of institutionalization:

Amend the Charter accordingly.

VII. Rules of procedure and institutionalization of the measures taken by the Security Council to enhance its working methods and transparency

30. The Security Council should finalize its provisional rules of procedure. Towards this end, the following steps should be taken by the Council:

(a) The arrangements regarding various measures that the Security Council has already adopted to enhance its working methods and transparency,[5] as well as the new measures discussed above, should be institutionalized as proposed by the Working Group in sections II to VI above;

(b) After institutionalization of the measures described in paragraph (a) above, there should be an overall review of the provisional rules of procedure, after which the word "provisional" should be deleted.

Notes

[1] *Official Records of the General Assembly, Fifty-first Session, Supplement No. 47* (A/51/47), annex V.

[2] Ibid., annexes IV and IX.

[3] Ibid., annex IX.

[4] On the established practice and improvements taken by the Security Council so far, see *Official Records of the General Assembly, Fifty-first Session, Supplement No. 47* (A/51/47), annex IX, on this item and other measures discussed in the present document.

[5] See the following presidential statements and notes by the President of the Security Council (listed here in chronological order):

- Note by the President of the Security Council dated 28 May 1993 (S/25859);
- Note by the President of the Security Council dated 30 June 1993 (S/26015);

- Note by the President of the Security Council dated 27 July 1993 (S/26176);
- Note by the President of the Security Council dated 28 February 1994 (S/1994/230);
- Statement by the President of the Security Council dated 3 May 1994 (S/PRST/1994/22);
- Statement by the President of the Security Council dated 24 July 1994 (S/PRST/1994/36);
- Statement by the President of the Security Council dated 4 November 1994 (S/PRST/1994/62);
- Statement by the President of the Security Council dated 16 December 1994 (S/PRST/1994/81);
- Note by the President of the Security Council dated 29 March 1995 (S/1995/234);
- Note by the President of the Security Council dated 31 May 1995 (S/1995/438);
- Statement by the President of the Security Council dated 19 December 1995 (S/PRST/1995/61);
- Note by the President of the Security Council dated 24 January 1996 (S/1996/54);
- Statement by the President of the Security Council dated 28 March 1996 (S/PRST/1996/13);
- Note by the President of the Security Council dated 12 June 1997 (S/1997/451)

Annex IV

Conference room paper submitted by the Bureau of the Open-ended Working Group: working methods of the Security Council, transparency of its work, as well as its decision-making process*

I. Introduction

1. The Open-ended Working Group achieved substantial progress during the fifty-first session of the General Assembly in its discussions on the working methods and transparency of the Security Council. The results of the debates are reflected in the negotiating paper of the Movement of Non-Aligned Countries on cluster II issues,[1] which was first submitted to the Working Group in March 1997, and in conference room papers 3 and 8 of the Bureau,[2] prepared on the basis of the debates of the Working Group on the negotiating paper submitted by the Movement of Non-Aligned Countries. During its deliberations in July 1997, the Working Group also discussed in detail the working methods and transparency of the Council based on part B of conference room paper 8, but no new conference room paper was prepared as a result of the discussions at that time. The present revised conference room paper attempts to incorporate the views expressed in those discussions as well as comments made in the meetings of the Working Group on 12 and 13 and from 23 to 26 February 1998.[3]

II. Relationship between the Security Council, the General Assembly and the general membership of the United Nations

A. Meetings of the Security Council

2. Suggested improvements to the present practice:[4]

(a) The Security Council should conduct its business in a public format open to Member States of the United Nations, unless it decides otherwise;

(b) When it so decides, the Security Council may meet in private and/or conduct its business in informal consultations;

(c) The Security Council should hold substantive orientation debates open to all Member States at the beginning of its consideration of any substantive matter;

(d) Open public meetings should also be held, as appropriate, with the concurrence of the Secretary-General, when he/she, his/her special representatives and/or envoys, the heads or representatives of United Nations agencies or field missions report to the Council.

3.**

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* Previously issued as A/AC.247/1998/CRP.4/Rev.1.

** Section on institutionalization to be agreed upon later.

B. Programme of work of the Security Council and agenda of its meetings and informal consultations

4. Suggested improvements to the present practice:

(a) In addition to the Security Council's monthly forecast of its programme of work, distributed to all Member States, the Council's provisional monthly schedule of work and its updated versions should also be circulated as soon as they have been agreed upon by the Council. The Security Council should [, as a rule,] consider its monthly programme of work in a formal meeting;

(b) The provisional agenda, including indications about actions expected to be taken at Security Council meetings (e.g., decisions on draft resolutions and presidential statements, reports, exchange of views, etc.) and the [annotated] agenda for informal consultations of the whole, including a list of issues to be discussed under other matters whenever they are known in advance, should be included in the *Journal of the United Nations*.

5.*

C. Briefings by the President of the Security Council to non-members, availability of draft resolutions and summaries of meetings and consultations

6. Suggested improvements to the present practice:

(a) The present practice followed by the Presidents of the Security Council of briefing non-members should be continued on days when informal consultations are held. These briefings should be arranged [as soon as possible]/[immediately] after such meetings or informal consultations. Interpretation should be provided for these briefings. The President of the Security Council will decide whether such briefings should also be distributed in writing. If the briefings are provided in writing they should also be transmitted to Permanent Missions through electronic mail;

(b) A short but substantive/analytical/factual summary prepared by the Secretariat of the informal consultations of the Security Council should be circulated as an official document of the Council to all Member States the day after such meetings. The summaries should also be transmitted to Permanent Missions through electronic mail;

(c) The President of the Security Council should make draft resolutions and draft presidential statements available as soon as they become the basis for informal consultations of the Council, or earlier if authorized by the author of the draft. If not distributed, the President, in briefing the membership, should provide information about the main elements of such draft resolutions, presidential statements or other documents under consideration by the Council;

(d) Information about consultations with and briefings to the troop-contributing countries should be included in briefings of the President immediately following such consultations or briefings;

[(e) A written summary of the consultations with and briefings to the troop-contributing countries should promptly be made available to all Member States.]

* Section on institutionalization to be agreed upon later.

(f) Briefings should be announced in the *Journal of the United Nations*.

7.*

D. Consultations with troop-contributing countries

8. Suggested improvements to the present practice:

(a) Consultations between members of the Security Council and troop-contributing countries, both current and potential, should be held promptly and on a regular basis before and during the decision-making process on the establishment, conduct, review and termination of peacekeeping operations, including the renewal and change of mandates. The Security Council should not consider specific operational issues of existing or pending peacekeeping operations without, at least, consulting its major contributors/troop-contributing countries;

(b) Consultations with troop-contributing countries should be convened and chaired by the President of the Security Council, supported by a representative of the Secretariat;

(c) Upon the request of a troop-contributing country, the President of the Council should promptly convene consultations with troop-contributing countries;

(d) Consideration should be given to inviting, to briefings with troop-contributing countries, Member States contributing civilian components e.g., civilian police, [and other substantial contributors; alternatively, separate consultations could be convened by the President of the Security Council with such contributing countries when the need arises];

(e) Consideration should also be given to inviting other countries affected by and/or involved, e.g. by transit or transport, in [multi-faceted] [peacekeeping] operations, including, where appropriate, host countries;

(f) The Security Council should, as appropriate, make use of proposals and/or information received in consultations with troop-contributing countries.

9.*

E. Report of the Security Council to the General Assembly

10. Suggested improvements to the present practice:

[(a) Upon the completion of his/her Presidency, each President of the Security Council should provide an assessment of the work of the Council during his/her Presidency to be attached to the annual report of the Council to the General Assembly. These assessments should also be distributed to non-members of the Council immediately after they are issued by the outgoing President;

(b) The annual report of the Security Council to the General Assembly should give a substantive and analytical account of the Council's work and it should be made available to the General Assembly not later than 30 August;

[(c) The annual report of the Security Council should also include, as appropriate, information on consultations of the whole undertaken prior to actions or deliberations by the Security Council on issues within its mandate and on the progress leading to such action;]

* Section on institutionalization to be agreed upon later.

(d) The Security Council should include in its annual report information on requests received under Article 50 of the Charter and actions taken by the Council thereon;

(e) The Security Council should submit special reports [as necessary] to the General Assembly for its consideration as stipulated in Articles [15 and] 24, paragraph 3, of the Charter;

(f) The Security Council should, in preparing its annual report to the General Assembly, fully take into account resolution 51/193 of 17 December 1996;

(g) The Security Council should, through an appropriate procedure or mechanism, update the General Assembly [on a regular basis] on the steps it has taken or is contemplating with respect to improving its reporting to the Assembly, including improvements in its working methods and transparency;

(h) The annual report should highlight the extent to which General Assembly and Security Council resolutions have been taken into account by the Council in its decision-making process on issues falling within the scope of the General Assembly and of the Security Council.]

10.*bis*

[(a) The Security Council is encouraged, in the submission of its reports to the General Assembly, to provide, in a timely manner, a substantive, analytical and material account of its work;

(b) The Security Council is called upon to adopt the following measures, *inter alia*, in connection with the content of its future reports to the General Assembly:

(i) To include, as appropriate, information on the consultations of the whole undertaken prior to action or deliberation by the Council on issues within its mandate and on the process leading to such action;

(ii) To include the decisions, recommendations or progress of work of the subsidiary organs of the Council, in particular the sanctions committees;

(iii) To highlight the extent to which resolutions of the General Assembly on issues falling within the scope of the General Assembly and the Security Council have been taken into account by the Council in its decision-making;

(iv) To strengthen further the section in the report on the steps taken by the Council to improve its working methods;

(v) To include information on requests received under Article 50 of the Charter and actions taken by the Council thereon;

(c) The Security Council is encouraged to provide special reports in accordance with Articles 15 and 24 of the Charter;

(d) The annual report of the Security Council is requested to be made available before the beginning of the general debate of the General Assembly;

(e) During their monthly informal meetings, the President of the General Assembly is requested to raise with the President of the Security Council, when deemed appropriate, the matters covered by the present [resolution] and to report to the Assembly on the steps taken by the Council in this regard;

(f) The Security Council is invited, through an appropriate procedure or mechanism, to update the General Assembly on a regular basis on the steps it has taken or is contemplating with respect to improving its reporting to the Assembly.]

11.*

F. Participation of non-members

12. Suggested improvements to the present practice:

(a) Meetings of the Security Council and informal consultations of the whole:

(i) The Security Council should conduct consultations on a regular basis with countries affected by the decisions of the Council;

(ii) The Security Council should invite non-members of the Council to participate [in the discussions] during informal consultations of the Council [in accordance with] [under similar arrangements as stipulated in] Articles 31 and 32 of the Charter;

(b) The members of the Security Council should more frequently resort to the "Arria formula", whereby Council members, on the initiative of a Council member, can hear views and obtain information related to issues under consideration by the Council;

(c) When a request for a meeting with the President of the Council is submitted in writing by a non-member of the Security Council for the purpose of discussing an urgent matter affecting the interests of that State, the President of the Security Council should acknowledge such a request in writing. On receipt of such a request, the President should promptly meet the non-member in question and inform the Council about the démarche at the first subsequent formal meeting of the Council or informal consultations of the whole.

13.*

G. Meetings of the Security Council in pursuance of Article 35 of the Charter

14. Suggested improvements to the present practice:

The Security Council should meet promptly when a Member State or a State which is not a member of the United Nations (in accordance with Article 35.2 of the Charter) requests the convening of an urgent meeting of the Security Council to investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security. The President of the Council should circulate such requests promptly as documents of the Council. The President should convene a meeting of the Council to hear the State in question. The Council should immediately decide how to pursue the matter.

15.*

* Section on institutionalization to be agreed upon later

H. Consultations pursuant to Article 50 of the Charter

16. Suggested improvements to the present practice:

(a) The Security Council should implement the right contained in Article 50 of the Charter, conferred on any State whether Member of the United Nations or not, to consult the Council with regard to a solution to problems arising from their implementation of preventive or enforcement measures imposed by the Council, taking into consideration also Article 49 of the Charter. Such consultations should be held promptly upon a request submitted by the State concerned;

(b) The Security Council should establish a mechanism to provide relief to affected States under Article 50 of the Charter on the basis of [automaticity of] application;

(c) The Security Council should implement fully annex II to General Assembly resolution 51/242 of 15 September 1997, entitled "Question of sanctions imposed by the United Nations".

17.*

I. Mechanism to alert non-members of the Security Council of unscheduled or weekend meetings

18. Suggested improvements to the present practice:

The Secretariat should establish an effective mechanism for alerting non-members of the Security Council of unscheduled or emergency meetings of the Council during nights, weekends or holidays (e.g. a voice recording, a website and/or electronic message or facsimile transmission to all Member States).

19.*

J. Consultations between the President of the Security Council, the President of the General Assembly and the Secretary-General

20. Suggested improvements to the present practice:

The President of the Security Council, the President of the General Assembly and the Secretary-General, on the basis of the relevant provisions of the Charter, should have regular monthly consultations and/or more frequently in the event of an international crisis or other urgent development. Other interested parties [, such as members of the Bureau of the General Assembly,] could be invited to participate.

21.*

K. Consultations with funds, programmes and agencies

The conduct of operational and humanitarian activities must conform to the guiding principles of humanitarian assistance and the principles of the United Nations development assistance. In cases when, as a transitory and exceptional measure, the Security Council

* Section on institutionalization to be agreed upon later.

is involved in overseeing and mandating humanitarian and operational assistance, the President of the Security Council should consult the Presidents of the concerned Executive Boards before the Council acts. The decisions of the respective Executive Boards and of the General Assembly shall be final in all aspects of such programmes.

III. Subsidiary organs of the Security Council

22. Suggested improvements to the present practice:

(a) Sanctions committees:

(i) Decisions and/or those parts of the summaries of the proceedings of the sanctions committees which do not compromise the confidentiality of the work of the committees should be made available also to non-members of the Security Council;

(ii) The Security Council should implement fully annex II to resolution 51/242 of 15 September 1997, entitled "Question of sanctions imposed by the United Nations".

(b) Other subsidiary organs:

Meetings of subsidiary organs of the Council established in pursuance of Article 29 of the Charter should be more transparent [and open to non-members of the Council] [as appropriate] in their proceedings (i.e., announcements of meetings in the *Journal of the United Nations*, briefings to non-members, etc.).

(c) Briefings of the chairmen of sanctions committees and other subsidiary organs:

The chairman should give an oral briefing after each meeting. Briefings of the chairmen of sanctions committees and other subsidiary organs should be announced in the *Journal*. [Could be transferred to section II.C: *Briefings by the President of the Security Council to non-members, availability of draft resolutions and summaries of meetings and consultations*.]

(d) Information regarding the substantive work of the subsidiary organs of the Council, including the sanctions committees, should be included in the annex of the annual report of the Council to the General Assembly. [Could be transferred to section II.E: *Report of the Security Council to the General Assembly*.]

23.*

IV. Relationship between the Security Council and other principal organs of the United Nations

International Court of Justice

24. Suggested improvements to the present practice:

The Security Council, in accordance with the relevant provisions of the Charter, should more frequently [when necessary] request the International Court of Justice to give an advisory opinion on any legal question.

* Section on institutionalization to be agreed upon later.

V. Relationship between the Security Council and regional arrangements and agencies

25. Suggested improvements to present practice:

(a) In its relations with regional arrangements and agencies, the Security Council should fully implement the provisions of General Assembly resolution 49/57 of 9 December 1994 and annex I to resolution 51/242 of 15 September 1997, entitled "Coordination";

(b) Regional arrangements and agencies should be consulted, at appropriate levels, on matters affecting the maintenance of international peace and security in accordance with Chapter VIII of the Charter and the relevant mandates of regional arrangements and agencies concerned.

Notes

[1] *Official Records of the General Assembly, Fifty-first Session, Supplement No. 47* (A/51/47), annex V.

[2] Ibid., annexes IV and IX.

[3] A/AC.247/1998/CRP.4.

[4] On the established practice and improvements taken by the Security Council so far, see *Official Records of the General Assembly, Fifty-first Session, Supplement No. 47* (A/51/47), annex IX, on this item and other measures discussed in the present document.

Annex V

Conference room paper submitted by the Bureau of the Open-ended Working Group: working methods of the Security Council and transparency of its work*

I. Introduction

1. During the fifty-first session of the General Assembly, the Open-ended Working Group achieved substantial progress in its discussions on the working methods and transparency of the Security Council. The debates were based on the negotiating paper of the Movement of Non-Aligned Countries on cluster II issues,[1] which was first submitted to the Working Group in March 1997, and on conference room papers 3 and 8 of the Bureau.[2] During its deliberations in July 1997, the Working Group continued its discussion of working methods and transparency of the Council. However, no new conference room paper was prepared as a result of the discussions at that time. The Bureau, therefore, during the fifty-second session of the General Assembly, prepared document A/AC.247/1998/CRP.4, which took into account earlier discussions. It was subsequently revised and issued as document A/AC.247/1998/CRP.4/Rev.1. The present draft attempts to incorporate the views expressed, in April and May 1998, during the deliberations on revision 1 of conference room paper 4.

II. Relationship between the Security Council, the General Assembly and the general membership of the United Nations

A. Meetings of the Security Council

2. Suggested improvements to the present practice:[3]

(a) The Security Council should conduct its business in a public format open to all Member States of the United Nations;

(b) When it so decides, the Security Council may meet in private and/or conduct its business in consultations of the whole;

(c) The Security Council should hold substantive orientation debates open to all Member States at the beginning of its consideration of any substantive matter;

(d) [The Security Council should, more often, conduct open debates and orientation discussions on the important items at the ministerial level;]

(e) Open public meetings should also be held, as appropriate and with the concurrence of the Secretary-General, when he/she, his/her special representatives and/or special envoys or the heads or representatives of United Nations bodies, agencies or field missions report to the Council.**

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* Previously issued as A/AC.247/1998/CRP.4/Rev.2.

** "Agencies" refers to United Nations organizations established under separate treaties outside the organs of the United Nations, whereas "bodies" refers to those organizations established pursuant to resolutions of the General Assembly or the Economic and Social Council.

3. Institutionalization:

Incorporate provisions to this effect into the rules of procedure of the Security Council or, as appropriate, statements by the President of the Council.

B. Programme of work of the Security Council and agenda of its meetings and informal consultations

4. Suggested improvements to the present practice:

(a) In addition to the Security Council's monthly forecast of its programme of work distributed to all Member States, the Council's provisional monthly schedule of work and its updated versions should also be circulated as soon as they have been agreed upon by the Council. Whenever possible, the Council should consider its monthly programme of work at a formal meeting;

(b) The provisional agenda, including indications about actions expected to be taken at Security Council meetings (e.g., decisions on draft resolutions and presidential statements, reports, exchanges of views, etc.) and the agenda for informal consultations of the whole, including a list of issues to be discussed under other matters whenever they are known in advance, should be included in the *Journal of the United Nations*.

5. Institutionalization:

Incorporate provisions to this effect into the rules of procedure of the Security Council or, as appropriate, statements by the President of the Council.

C. Briefings by the President of the Security Council to non-members, availability of draft resolutions and summaries of meetings and consultations

6. Suggested improvements to the present practice:

(a) The present practice followed by the Presidency of the Security Council of briefing non-members should be continued. The briefings should take place immediately after meetings or informal consultations of the Council. Whenever possible, interpretation should be provided for these briefings. Briefings for non-members should be closed and held before briefings for the media. The President of the Council will decide whether written records of such briefings should also be distributed. If written records of the briefings are to be provided, they should also be transmitted to the Permanent Missions to the United Nations through electronic mail;

(b) A short factual summary of the informal consultations of the Security Council should be prepared by the Secretariat and circulated as an official document of the Council to all Member States the day after such meetings. The summaries should also be transmitted to permanent missions through electronic mail;

(c) The President of the Security Council should make draft resolutions and draft presidential statements available as soon as they become the basis for informal consultations of the Council, or earlier if authorized by the author of the draft. If not distributed, the President, in briefing non-members of the Council, should provide information about the main elements of such draft resolutions, presidential statements or other documents under consideration by the Council;

(d) Immediately following meetings between Security Council members, troop-contributing countries, other contributors and the Secretariat, the President should brief interested non-members of the Security Council on the contents of such meetings;

(e) A written summary of meetings with troop-contributing countries should be made available promptly to all Member States.

7. Institutionalization:

Incorporate provisions to this effect into the rules of procedure of the Security Council or, as appropriate, statements by the President of the Council.

D. Meetings with troop-contributing countries and other contributors to peacekeeping operations

8. Suggested improvements to the present practice:

(a) Meetings between members of the Security Council and troop-contributing countries, both current and prospective, should be held on a regular basis before and during the decision-making process on the establishment, conduct, review and termination of peacekeeping operations, including the renewal and change of mandates, as well as specific operational issues. In case of emergencies, such meetings should be held promptly;

(b) Meetings with troop-contributing countries should be convened and chaired by the President of the Security Council, supported by the Secretariat;

(c) Upon the request of a troop-contributing country, the President of the Council should promptly convene meetings with troop-contributing countries;

(d) Other countries contributing to peacekeeping operations should be invited, as appropriate, to these meetings;

(e) Countries directly concerned and/or affected by peacekeeping operations, including host countries, should also, in specific circumstances and as appropriate, be invited to these meetings;

(f) Meetings should be announced in the *Journal of the United Nations*;

(g) The Security Council should make full use of proposals and/or information received in meetings with troop-contributing countries.

9. Institutionalization:

Incorporate provisions to this effect into the rules of procedure of the Security Council or, as appropriate, statements by the President of the Council.

E. Reports of the Security Council to the General Assembly

10. Suggested improvements to the present practice:

(a) Upon the completion of his/her Presidency, each President of the Security Council should provide a substantive and analytical assessment of the work of the Council including, as appropriate, informal consultations of the whole, held during his/her Presidency. These assessments should be distributed to non-members of the Council immediately after they are issued by the outgoing President. They should also be attached to the annual report of the Council to the General Assembly;

(b) The annual report of the Security Council to the General Assembly should give a detailed and analytical account of the Council's work and it should be made available to the General Assembly not later than 30 August;

(c) The annual report of the Security Council should also include, as appropriate, information on decisions reached at the consultations of the whole;

(d) The Security Council should include in its annual report information on requests received under Article 50 of the Charter and actions taken by the Council thereon;

(e) The annual report should enable Member States to assess the extent to which General Assembly and Security Council resolutions have been taken into account by the Council in its decision-making process on issues falling within the scope of the General Assembly and of the Security Council;

(f) The Security Council should, in preparing its annual report to the General Assembly, fully take into account resolution 51/193 of 17 December 1996. In particular, it should:

(i) Include, as appropriate, information on consultations of the whole undertaken prior to action or deliberation by the Council on issues within its mandate and on the process leading to such action;

(ii) Include decisions, recommendations or progress of work of the subsidiary organs of the Council, in particular the sanctions committees;

(iii) Strengthen further the section in the report on the steps taken by the Council to improve its working methods;

(g) The Security Council should, when necessary, submit special reports to the General Assembly in accordance with Article 24 (3) of the Charter, for the consideration of the Assembly in accordance with Article 15 of the Charter;

(h) The Security Council is invited, through an appropriate procedure or mechanism, to update the General Assembly on a regular basis on the steps it has taken or is contemplating taking with respect to improving its reporting to the Assembly.

11. Institutionalization:

Incorporate provisions to this effect into the rules of procedure of the Security Council or, as appropriate, statements by the President of the Council.

F. Participation of non-members in meetings of the Security Council and informal consultations of the whole

12. Suggested improvements to the present practice:

(a) The Security Council should, more frequently, hold public meetings to hear the views of non-members of the Council;

(b) When a non-member of the Council submits a written request for a meeting with the President of the Council to discuss an urgent matter affecting its interests, the President should acknowledge such a request in writing. Upon receipt of such a request, the President should promptly meet the non-member in question and inform the Council about the démarche;

(c) The Security Council should fully implement Article 31 of the Charter and rule 37 of the Council's provisional rules of procedure, in order to enhance the needed

participation of non-members in meetings of the Council. It should not challenge the requests of non-members seeking to be heard at meetings of the Council;

(d) The Security Council should, on a timely and regular basis, conduct consultations with countries affected by the decisions of the Council;

(e) The Security Council should invite non-members of the Council to participate [in the discussions] in its informal consultations on matters directly affecting them, [in accordance with] [under similar arrangements as stipulated] in Articles 31 and 32 of the Charter.

13. Institutionalization:

Incorporate provisions to this effect into the rules of procedure of the Security Council or, as appropriate, statements by the President of the Council.

G. "Arria formula"

14. Suggested improvements to the present practice:

Members of the Security Council could, as appropriate, resort to the "Arria formula" to hear, on the initiative of a Council member, views and obtain information related to issues under consideration by the Council.

15. Institutionalization:

Incorporate provisions to this effect into the rules of procedure of the Security Council or, as appropriate, statements by the President of the Council.

H. Meetings of the Security Council in accordance with Articles 35 and 99 of the Charter

16. Suggested improvements to the present practice:

When a Member State, the Secretary-General or a State which is not a member of the United Nations requests an urgent meeting of the Security Council, the President of the Council should immediately circulate such request as a document of the Council and promptly convene a meeting of the Council to hear the State in question or the Secretary-General. The Council should immediately decide how to pursue the matter.

17. Institutionalization:

Incorporate provisions to this effect into the rules of procedure of the Security Council or, as appropriate, statements by the President of the Council.

I. Consultations pursuant to Article 50 of the Charter

18. Suggested improvements to the present practice:

(a) The Security Council should take measures providing for more effective implementation of the right contained in Article 50 of the Charter for any State, whether a Member of the United Nations or not, to consult the Council with regard to problems arising from its implementation of preventive or enforcement measures imposed by the Council. Such consultations should be held promptly upon a request submitted by the State concerned [or the Secretary-General];

(b) The Security Council should promptly establish an effective mechanism to provide relief to affected States under Article 50 of the Charter [on the basis of automaticity of application];

(c) The Security Council should fully implement annex II to General Assembly resolution 51/242 of 15 September 1997, entitled "Question of sanctions imposed by the United Nations".

19. Institutionalization:

Incorporate provisions to this effect into the rules of procedure of the Security Council or, as appropriate, statements by the President of the Council.

J. Mechanism to alert non-members of the Security Council of unscheduled or weekend meetings

20. Suggested improvements to the present practice:

The Secretariat should establish an effective mechanism for alerting non-members of the Security Council of unscheduled or emergency meetings of the Council during nights, weekends and holidays (e.g., a voice recording, a website and/or an electronic message or facsimile transmission to all Member States).

21. Institutionalization:

To be implemented by the Secretariat as soon as possible, but could also, to this effect, be incorporated into the rules of procedure of the Security Council or, as appropriate, statements by the President of the Council.

K. Consultations between the President of the Security Council, the President of the General Assembly and the Secretary-General

22. Suggested improvements to the present practice:

(a) The President of the Security Council, the President of the General Assembly and the Secretary-General should hold regular monthly consultations, to which Members of the Bureau of the General Assembly could be invited, when the need arises. In the event of an international crisis or any other urgent development, such consultations should be held more frequently;

(b) The President of the General Assembly is requested to raise with the President of the Security Council, during their monthly informal meetings and when deemed appropriate, the measures mentioned in section E above and to report to the Assembly on the steps taken by the Council in this regard.

23. Institutionalization:

Incorporate provisions to this effect into the rules of procedure of the Security Council or, as appropriate, statements by the President of the Council.

L. Consultations with funds, programmes and agencies

24. Suggested improvements to the present practice:

The conduct of operational and humanitarian activities must conform to the guiding principles of humanitarian assistance and the principles of United Nations development assistance. In cases when, as a transitory and exceptional measure, the Security Council is involved in overseeing and mandating humanitarian and operational assistance, the President of the Council should consult the presidents of the executive boards concerned before the Council acts. The decisions of the respective executive boards and of the General Assembly shall be final in all aspects of such programmes.

25. Institutionalization:

Incorporate provisions to this effect into the rules of procedure of the Security Council or, as appropriate, statements by the President of the Council.

III. Subsidiary organs of the Security Council

26. Suggested improvements to the present practice:

(a) Sanctions committees:

(i) Decisions and/or those parts of the summaries of the proceedings of the sanctions committees which do not compromise the confidentiality of the work of the committees should be made available promptly to non-members of the Security Council;

(ii) The Security Council should fully implement annex II to resolution 51/242 of 15 September 1997, entitled "Question of sanctions imposed by the United Nations".

(b) Other subsidiary organs:

(i) [The Security Council should consider establishing a Committee on Prevention and a Committee for Peace Missions. These committees would work all year long and would be open to all interested States and governmental and non-governmental organizations. The rationale for establishing these committees would be to bring the Council closer to the general public and to democratize its working methods;]

(ii) Meetings of subsidiary organs of the Council established pursuant to Article 29 of the Charter should be more transparent and, when appropriate, open to non-members of the Council. Such meetings should be announced in the *Journal of the United Nations*, and information about the proceedings, in particular those regarding decisions and recommendations, should be made available to non-members.

(c) Briefings by the chairmen of sanctions committees and other subsidiary organs:

Chairmen of sanctions committees and other subsidiary organs of the Security Council should give briefings to non-members of the Council after each meeting. Briefings by the chairmen of sanctions committees and other subsidiary organs should be announced in the *Journal of the United Nations*.

27. Institutionalization:

Incorporate provisions to this effect into the rules of procedure of the Security Council or, as appropriate, statements by the President of the Council.

IV. Relationship between the Security Council and other principal organs of the United Nations

A. International Court of Justice

28. Suggested improvements to the present practice:

In accordance with relevant provisions of the Charter, the Security Council should more frequently request the International Court of Justice to give an advisory opinion on any legal question.

B. Economic and Social Council

29. Suggested improvements to the present practice:

[In accordance with Article 65 of the Charter, the Security Council should consider requesting the Economic and Social Council to furnish it with information on matters relevant to the work of the Security Council.]

30. Institutionalization:

Incorporate provisions to this effect into the rules of procedure of the Security Council or, as appropriate, statements by the President of the Council.

V. Relationship between the Security Council and regional arrangements and agencies

31. Suggested improvements to the present practice:

(a) In its relations with regional arrangements and agencies, the Security Council should fully implement the provisions of General Assembly resolution 49/57 of 9 December 1994 and annex I to resolution 51/242 of 15 September 1997, entitled "Coordination";

(b) Regional arrangements and agencies should be consulted on matters affecting the maintenance of international peace and security in accordance with Chapter VIII of the Charter and the relevant mandates of regional arrangements and agencies concerned.

32. Institutionalization:

Incorporate provisions to this effect into the rules of procedure of the Security Council or, as appropriate, statements by the President of the Council.

VI. Rules of procedure and institutionalization of the measures taken by the Security Council to enhance its working methods and transparency

33. Suggested improvements to the present practice:

The Security Council should finalize its provisional rules of procedure. Towards this end, the following steps should be taken by the Council:

(a) The arrangements regarding various measures that the Council has already adopted to enhance its methods and transparency,[4] as well as the new measures discussed above, should be institutionalized as proposed by this Working Group in sections II-V of the present report;

(b) After institutionalization of the measures described in subparagraph (a) above there should be an overall review of the provisional rules of procedure, after which the word "provisional" should be deleted.

Notes

[1] *Official Records of the General Assembly, Fifty-first Session, Supplement No. 47* (A/51/47), annex V.

[2] Ibid., annexes IV and IX.

[3] On the established practice and improvements taken by the Security Council so far, see *Official Records of the General Assembly, Fifty-first Session, Supplement No. 47* (A/51/47), annex IX, on this item and other measures discussed in the present document.

[4] See the following presidential statements and notes of the President of the Security Council (listed here in chronological order):

- Note by the President of the Security Council dated 28 May 1993 (S/25859);
- Note by the President of the Security Council dated 30 June 1993 (S/26015);
- Note by the President of the Security Council dated 27 July 1993 (S/26176);
- Note by the President of the Security Council dated 28 February 1994 (S/1994/230);
- Statement by the President of the Security Council dated 3 May 1994 (S/PRST/1994/22);
- Statement by the President of the Security Council dated 24 July 1994 (S/PRST/1994/36);
- Statement by the President of the Security Council dated 4 November 1994 (S/PRST/1994/62);
- Statement by the President of the Security Council dated 16 December 1994 (S/PRST/1994/81);
- Note by the President of the Security Council dated 29 March 1995 (S/1995/234);
- Note by the President of the Security Council dated 31 May 1995 (S/1995/438);
- Statement by the President of the Security Council dated 19 December 1995 (S/PRST/1995/61);
- Note by the President of the Security Council dated 24 January 1996 (S/1996/54);
- Statement by the President of the Security Council dated 28 March 1996 (S/PRST/1996/13);
- Note by the President of the Security Council dated 12 June 1997 (S/1997/451);
- Note by the President of the Security Council dated 30 April 1998 (S/1998/354).

Annex VI

Proposed amendments to document A/AC.247/1998/CRP.4, submitted by Italy, dated 23 February 1998: relationship between the Security Council, the General Assembly and the general membership of the United Nations*

II. Relationship between the Security Council, the General Assembly and the general membership of the United Nations

C. Briefings by the President of the Security Council to non-members, availability of draft resolutions and summaries of informal consultations

In paragraph 6 (b), replace the end of the last sentence with: "... should provide information about the main elements of the draft resolutions and/or presidential statements under consideration by the Council;".

D. Consultations with troop-contributing countries

In paragraph 8, add a new subparagraph (e) as follows: "(e) A summary of the consultations with troop-contributing countries should promptly be made available to all Member States."

E. Report of the Security Council to the General Assembly

In paragraph 10:

- Replace subparagraph (c) with the following: "In particular, the annual report of the Security Council should include, as appropriate, information on the consultations of the whole undertaken prior to actions or deliberations by the Council on issues within its mandate and on the progress leading to such action;"
- Replace subparagraph (d) with the following: "The report should highlight the extent to which resolutions of the General Assembly on issues falling within the scope of the General Assembly and of the Security Council have been taken into account by the Council in its decision-making process;"

F. Participation of non-members

In paragraph 12, add a new subparagraph (c) as follows:

"(c) Request of a meeting with the President of the Security Council by non-members of the Council:

"When a request for a meeting with the President of the Security Council is submitted in writing by a representative of a non-member State of the Security

* Previously issued as A/AC.247/1998/CRP.6.

Council, for the purpose of discussing an urgent matter affecting the interests of that State, the President of the Security Council must acknowledge in writing the receipt of such request, immediately meet the representative of the non-member State and inform the Council about the object of the démarche at the first subsequent formal or informal meeting of the Council."

H. Consultations pursuant to Article 50 of the Charter

In paragraph 16, add the following sentence at the end of subparagraph (a): "Such consultations with the Council should be held promptly after a request for such consultations has been submitted by the Member State or States concerned;"

III. Subsidiary organs of the Security Council

In paragraph 22 (a) (ii), delete "taken into account/".

IV. Relationship between the Security Council and other principal organs of the United Nations

A. International Court of Justice

In paragraph 24, line 3, delete "in particular".

V. Relationship between the Security Council and regional arrangements, organizations and agencies

In paragraph 25 (a), line 2: delete "take into account/".

Annex VII

Proposed amendments to document A/AC.247/1998/CRP.4, submitted by the Republic of Korea, dated 27 February 1998: relationship between the Security Council, the General Assembly and the general membership of the United Nations*

II. Relationship between the Security Council, the General Assembly and the general membership of the United Nations

A. Meetings of the Security Council

In the first two lines of paragraph 2 (c), insert "the Secretary-General," between "when" and "special envoys of the Secretary-General".

B. Programme of work of the Security Council

At the end of paragraph 4 (a), add: "In this regard, the Council should consider the provisional work programme for the month in a formal session".

C. Briefings by the President of the Security Council to non-members

In paragraph 6 (b), replace "should provide information about the existence of draft resolutions to the Council" by "should provide information about the main elements of the draft resolutions, presidential statements or other documents under consideration by the Council".

D. Consultations with the troop-contributing countries

After paragraph 8 (d), add "The distribution of a summary of the consultations and the holding of presidential briefings for the general membership".

E. Report of the Security Council to the General Assembly

In the second sentence of paragraph 10 (a), replace "immediately after they are issued by the President of the Council" by "immediately after they are issued by the outgoing President of the Council upon the completion of his/her Presidency".

F. Participation of non-members

At the end of the last line of paragraph 12, add "and obtain information related to issues under consideration by the Council".

* Previously issued as A/AC.247/1998/CRP.7.

III. Subsidiary organs of the Security Council

Add a new paragraph 22 (c) reading:

"Information regarding the substantive work of the subsidiary organs of the Council, including the Sanctions Committees, should be included in the annex to the annual report of the Council to the General Assembly."

Annex VIII

Proposed amendments to document A/AC.247/1998/CRP.4/Rev.2, submitted by the Republic of Korea, dated 9 July 1998, on the working methods of the Security Council, transparency of its work, as well as its decision-making process*

II. Relationship between the Security Council, the General Assembly and the general membership of the United Nations

B. Security Council programme of work and agenda of its meetings and informal consultations

In paragraph 4, subparagraph (a), line 4, delete "Whenever possible".

C. Briefings by the President of the Security Council to non-members, availability of draft resolutions and summaries of meetings and consultations

In paragraph 6:

- In subparagraph (a), fourth sentence, replace "held before briefings" with "held no later than briefings".
- In subparagraph (b), line 2, insert "in consultation with the members of the Council" between "Secretariat" and "and circulated".
- In subparagraph (c), line 2, replace "resolutions and draft presidential statements" with "resolutions, draft presidential statements or other documents".
- Add a new subparagraph 22 (f) reading: "Briefings should be announced in the *Journal of the United Nations*".

E. Reports of the Security Council to the General Assembly

In paragraph 10:

- In the second sentence of subparagraph (a), insert "as official documents" between "distributed" and "to non-members".
- In subparagraph (b), line 2, replace "detailed and analytical" with "detailed and comprehensive".
- In subparagraph (f) (ii), replace "progress of work of the subsidiary organs of the Council, in particular the sanctions committees" with "other substantive work of the subsidiary organs of the Council, in particular the sanctions committees, in the annex of the annual report".

* Previously issued as A/AC.247/1998/CRP.20.

F. Participation of non-members in meetings of the Security Council and informal consultations of the whole

In paragraph 12:

- At the end of subparagraph (a), add "at the beginning of its consideration of any substantive matter".
- In subparagraph (e), line 2, delete "[in the discussions]".

H. Meetings of the Security Council in accordance with Articles 35 and 99 of the Charter

In paragraph 17, following the heading, replace the text with "Replace rule 3 of the provisional rules of procedure of the Security Council."

J. Mechanism to alert non-members of the Security Council of unscheduled or weekend meetings

At the end of paragraph 20, add the following sentence: "The President of the Security Council should make his/her best efforts to give instructions to the Secretariat for such emergency notice to non-members of the Council at the earliest possible time, when unscheduled or emergency meetings of the Council are anticipated."

L. Consultations with funds, programmes and agencies

In paragraph 24, delete the third sentence.

III. Subsidiary organs of the Security Council

In paragraph 26, merge subparagraphs (a) (i) and (b) (ii), so that the paragraph reads as follows:

(a) Meetings of subsidiary organs of the Council established pursuant to Article 29 of the Charter should be more transparent and, when appropriate, open to non-members of the Council. Such meetings should be announced in the *Journal of the United Nations*.

(b) Decisions and/or those parts of the summaries of the proceedings of subsidiary organs which do not compromise the confidentiality of the work of the organs should promptly be made available to non-members of the Council.

(c) The Security Council should fully implement annex II to resolution 51/242 of 15 September 1997, entitled "Question of sanctions imposed by the United Nations".

Annex IX

Proposal submitted by Solomon Islands, dated 16 July 1998, concerning access to the archives and records of the Security Council and to the high-level members of the Secretariat serving the Security Council*

The Open-ended Working Group must have accurate knowledge about the past and present workings of the Security Council if it is to fulfil the mandate it has received from the General Assembly. Any delegation or group of delegations to the Working Group should have the right of access to the archives and records of the Security Council and to the high-level members of the Secretariat serving the Security Council, for the purpose of acquiring information for use in the Working Group.

* Previously issued as A/AC.247/1998/CRP.22.

Annex X

Conference room paper prepared by the Bureau of the Open-ended Working Group*: summary of proposals made by delegations during the deliberations of the Open-ended Working Group dated 27 April 1998**

Decision-making in the Security Council, including the veto

I. The veto as a voting instrument in the Security Council

A. Proposals aimed at curtailment, limitation or discouragement of the use of the veto which do not necessarily require amendments to the Charter

1. The permanent members of the Security Council, collectively or individually, should commit themselves not to resort to the veto or to the threat of its use beyond actions taken under Chapter VII of the Charter.

2. The permanent members of the Security Council should exercise the veto in a manner consistent with their responsibilities under the Charter. The permanent members should always provide a written justification whenever they exercise the veto.

3. The Security Council should introduce a practice whereby a permanent member would be able to cast a negative vote without such a vote constituting a veto when the member so declares. This would be similar to the current practice concerning the abstention, non-participation or absence of a permanent member in the Council's decision-making process.

4. A legal definition of what constitutes a procedural matter in the decision-making of the Security Council should be formulated. A list of decisions of the Security Council deemed procedural should be developed, *inter alia*, through the revision of the annex to General Assembly resolution 267 (III) of 14 April 1949.

5. The General Assembly should adopt a declaration expressing its attitude towards the veto as a voting instrument in the Security Council, encouraging Security Council members to make every effort to seek consensus in the Council's decision-making process. The declaration should also contain recommendations to the Council aimed at curtailing, limiting or discouraging the use of the veto.

B. Proposals aimed at curtailment or limitation of the use of the veto requiring amendments to the Charter

6. The Charter should be amended to provide for restriction of the veto to questions falling under Chapter VII of the Charter, *inter alia*, through amendments to Articles 4, 5, 6, 27, 97, 108 and 109 of the Charter.

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* Previously issued as A/AC.247/1998/CRP.10.

** The present paper does not reflect proposals to the effect that the veto as a voting instrument in the Security Council should continue to be discussed within an open-ended high-level format of the General Assembly; nor does it deal with proposals concerning the extension of the veto to possible new permanent members of the Security Council.

7. The Charter should be amended to provide for suspension of the veto on specific occasions, as defined by a prescribed qualified majority of the General Assembly.

8. The Charter should be amended so that a single negative vote by a permanent member of the Security Council will not prevent action on a proposal that has received the required majority.

II. The number of affirmative votes required for decisions in the Security Council

9. If the present action threshold is maintained at approximately the present level (60 per cent), the number of affirmative votes required for a decision would be: in a Council of 20: 12; in a Council of 21: 13; in a Council of 23 or 24: 14; in a Council of 25: 15; in a Council of 26: 16. Proposals for changing the present action threshold could be also considered.

Annex XI

Conference room paper prepared by the Bureau of the Open-ended Working Group*: summary of proposals made by delegations during the deliberations of the Open-ended Working Group dated 12 May 1998**

Decision-making in the Securiity Council, including the veto

I. The veto as a voting instrument in the Security Council

A. Proposals aimed at curtailment, limitation or discouragement of the use of the veto which do not necessarily require amendments to the Charter of the United Nations

1. A proposal was made to the effect that the permanent members of the Security Council, collectively or individually, should commit themselves, in a legally binding manner, not to resort to the veto or to the threat of its use beyond actions taken under Chapter VII of the Charter. Such commitments should be incorporated into the rules of procedure of the Security Council.

2. A proposal was made to the effect that the permanent members of the Security Council should exercise the veto in a manner consistent with their responsibilities under the Charter and in accordance with the norms of international law. The veto should be exercised only when permanent members consider the question of vital importance, taking into account the interests of the United Nations as a whole. To state upon what factual and legal ground the permanent members consider this condition to be present, they should always provide a written justification which would be considered legally binding.

3. A proposal was made to the effect that the Security Council should introduce a practice whereby a permanent member would be able to cast a negative vote without such a vote constituting a veto when the member so declares. This would be similar to the current practice concerning the abstention, non-participation or absence of a permanent member in the Council's decision-making process.

4. A proposal was made to the effect that a legal definition of what constitutes a procedural matter in the decision-making of the Security Council should be formulated. In lack thereof, clear criteria as to which matters are of a procedural nature should be developed. A proposal was made to the effect that decisions referred to as being of a procedural nature could be based on the following criteria:

(a) All decisions adopted in application of provisions that appear in the Charter under the heading "procedure";

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* Previously issued as A/AC.247/1998/CRP.10/Rev.1.

** The present paper does not indicate the level of support by delegations for the proposals contained herein. Nor does it reflect the number of delegations that made the same proposal. It should also be noted that the present paper does not include proposals to the effect that the veto as a voting instrument in the Security Council could continue to be discussed within an open-ended high-level format of the General Assembly, nor does it deal with proposals concerning the extension of the veto to possible new permanent members of the Security Council.

(b) All decisions concerning the relationship between the Security Council and other organs of the United Nations, or by which the Security Council seeks the assistance of other organs of the United Nations;

(c) All decisions related to the Security Council's internal functioning and the conduct of its business;

(d) All decisions that bear a close analogy to decisions included under the above-mentioned criteria;

(e) Certain decisions instrumental in arriving at or in following up a procedural decision.

5. A proposal was made to the effect that the permanent members shall generally be guided by the annex to resolution 267 (III) of 14 April 1949 regarding which matters should be deemed procedural.

6. A proposal was made to the effect that the annex to resolution 267 (III) should be updated and a complementary list of Security Council decisions deemed procedural should be developed. Proposals have been made suggesting that the following decisions be deemed procedural, in addition to those contained in the annex to resolution 267 (III):

(a) All decisions taken by the Security Council under Chapter VI of the Charter, including:

(i) Decisions to call upon the parties to a conflict to resort to peaceful means of conflict resolution;

(ii) Decisions on mediation efforts and measures of preventive diplomacy;

(iii) Decisions calling for gathering of information or for the dispatch of observers to ascertain facts;

(b) Decisions to call upon the parties to a conflict to abide by the rules of international humanitarian law;

(c) Decisions on procedural matters related to consultations with troop-contributing countries;

(d) Decisions on the timing and modalities of submitting the report of the Security Council to the General Assembly;

(e) Recommendations of the Security Council made in accordance with Articles 4, 5, 6 and 97 of the Charter;

(f) Decisions taken under Article 40 relating to provisional measures;

(g) Decisions adopted on the basis of implementing Article 50.

7. A proposal was made to the effect that resolution 267 (III), with its updated annex and any agreed additional decisions deemed procedural, should be recommended to the Security Council for adoption and incorporation into its rules of procedure.

B. Proposals aimed at curtailment or limitation of the use of the veto requiring amendments to the Charter

8. A proposal was made to the effect that the Charter should be amended so that, as a first step, the veto would apply only to decisions taken under Chapter VII of the Charter, *inter alia*, through amendments to Articles 4, 5, 6, 27, 97, 108 and 109 of the Charter.

9. A proposal was made to the effect that paragraph 2 of Article 27.2, pertaining to decisions on procedural matters, should be redefined.

10. A proposal was made to the effect that the Charter should be amended to provide, as part of the voting mechanism of the Security Council under Article 27 of the Charter, for a reference to the veto with all its specific criteria.

11. A proposal was made to the effect that the Charter should be amended to provide for suspension of the veto on specific occasions, as defined by a prescribed qualified majority of the General Assembly.

12. A proposal was made to the effect that the Charter should be amended so that at least two negative votes by permanent members of the Security Council would be required to prevent the adoption of a decision that has received the required majority.

II. The number of affirmative votes required for decisions in the Security Council

13. If the present action threshold is maintained at approximately the present level (60 per cent), the number of affirmative votes required for a decision would be: in a Council of 20: 12; in a Council of 21: 13; in a Council of 23 or 24: 14; in a Council of 25: 15; in a Council of 26: 16. Proposals for changing the present action threshold could also be considered.

Annex XII

Study on the legal basis of the veto: letter dated 11 August 1997 from the Under-Secretary-General for General Assembly Affairs and Conference Services addressed to the Vice-Chairman of the Open-ended Working Group*

I refer to your request to the Secretariat for a study on the legal basis of the veto in your capacity as Vice-Chairman of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and other matters related to the Security Council.

When the Working Group endorsed the suggestion of the representative of Egypt for a "legal study to be undertaken by the Secretariat on the basis of the veto", at its 30th meeting, on 13 June 1997, Egypt also noted that the study should be expressed in a "short (1-2 pages) informal and neutral paper provided by the Secretariat".

Further, and as noted in your statement to the Working Group on 11 July 1997, the Office of Legal Affairs, which was to undertake the study, was overstretched and unable to produce the study at that time. However, I now have the honour to forward herewith the study prepared by the Office of Legal Affairs entitled "The legal basis of the veto".

(*Signed*) **Jin** Yongjian
Under-Secretary-General for
General Assembly Affairs
and Conference Services

Appendix

The legal basis of the veto

1. The right of each permanent member of the Security Council to veto non-procedural decisions of the Security Council is provided for in Article 27, paragraph 3, of the Charter of the United Nations.

Questions subject to veto

2. During the San Francisco conference, the four co-sponsors issued a Declaration concerning the voting procedure of the Council. Paragraphs 2 and 3 of part I of the Declaration indicate which decisions are procedural, while paragraphs 4 and 5 indicate those decisions which are subject to veto, i.e., those decisions that may "initiate a chain of events which might, in the end, require the Council, under its responsibilities, to invoke measures of enforcement under [Chapter VIII]". Part II of the Declaration specifies how decisions are made as to whether questions before the Council are procedural or substantive (see para. 8 below).

3. The provisional rules of procedure of the Security Council contain no provisions as to voting, except for a cross-reference to the Charter (rule 40). The official records on the adoption of the provisional rules do not show any relevant discussion on the veto.

* Previously issued as A/AC.247/1998/CRP.1.

4. At its first and third sessions, the General Assembly adopted pleas addressed to the permanent Council members for restraint in the use of the veto (resolutions 40 (I) and 267 (III)). Annexed to the second resolution is a list of decisions deemed procedural. In the studies of Article 27 appearing in successive issues of the *Repertory of Practice of United Nations Organs* there are tables showing which questions have been held by the Council to be procedural or not to be procedural.

Effect of abstentions and absences

5. Early on the Council established a practice whereby an abstention by a permanent member on a non-procedural question would not constitute a veto. The first time this occurred was at the 39th meeting, on 29 April 1946, when the representative of the Union of Soviet Socialist Republics abstained, "bearing in mind ... that my voting against the resolution would make its adoption impossible". This practice has been repeatedly reaffirmed by presidential rulings, and each of the permanent members has repeatedly relied on it; the *Repertory* studies of Article 27 include a table listing these instances, and more detailed information is given in the *Repertoire of the Practice of the Security Council*.

6. In its advisory opinion on Namibia (South West Africa),[1] the International Court of Justice acknowledged this practice by stating that "This procedure followed by the Security Council ... has been generally accepted by Members of the United Nations and evidences a general practice of that Organization".

7. The same practice has been adopted in instances of absence of a permanent member from voting. For example, at its 473rd meeting, on 25 June 1950, the Security Council adopted, in the absence of a permanent member, a resolution to determine the armed invasion of the Republic of Korea "a breach of the peace" and to call for assistance from the Members of the United Nations.

The "double veto"

8. In accordance with part II of the San Francisco declaration, "the decision regarding the preliminary question as to whether or not such a matter is procedural must be taken by a vote of seven members of the Security Council, including the concurring votes of the permanent members". This provides for the practice known as the "double veto": a veto is first used to establish that a given question is non-procedural, and then on the vote on the question itself. (In practice, the vote on the question itself may precede the decision as to its non-procedural nature.) An example of the use of the "double veto" occurred during the 49th meeting of the Council, on 26 June 1946, when a permanent member objected to the President's interpretation of a vote as procedural, which resulted in a second vote on the procedural nature of the question.

Notes

[1] *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council resolution 276 (1970), Advisory Opinion, ICJ Reports 1971*, p. 16.

Annex XIII

Letter dated 28 January 1998 from the Permanent Representative of Egypt addressed to the President of the General Assembly*

Thank you for circulating the letter addressed to the Vice-Chairman of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council dated 11 August 1997 (A/AC.247/1998/CRP.1), which contains the study Mr. Jin Yongjian, Under-Secretary-General for General Assembly Affairs and Conference Services, kindly undertook on the legal basis of the veto.

I have read the document with care and I must admit in all candour that the document missed the central point of my request. Once again, I would like to state that the delegation of Egypt had requested a brief study on the legal basis for the current practice of the veto, and not for a textual reference of the veto, which is, in itself, insufficient to explain the current practice of the veto. My request for this study is based on the fact that the current practice of unlimited scope of application of the veto has no legal basis in the Charter or in the provisional rules of procedure of the Security Council. The careful examination of the relevant provisions demonstrates that there is no constitutional basis or agreed upon clarification on the scope of application of the veto.

It would, therefore, be appropriate at present, in the context of the Open-ended Working Group established by the General Assembly, for Member States to undertake a thorough examination of the scope of application of the veto.

Lastly, I would be very grateful if you could circulate the present letter as a conference room paper of the Open-ended Working Group.

(*Signed*) Nabil **Elaraby**
Ambassador
Permanent Representative

* Previously issued as A/AC.247/1998/CRP.3

Annex XIV

Proposals on decision-making in the Security Council and the veto right, submitted by Germany, dated 21 April 1998: voting rights of the existing permanent members*

Germany proposes that reform of the Security Council take into consideration the following elements:

- The use of the veto is a matter of general concern. Reform and expansion of the Security Council call for a thorough examination of the issue;
- The members of the Security Council shall make every effort to seek consensus in the Council decision-making process;
- The permanent members of the Security Council shall make statements, either individually or collectively, that the veto will be exercised in a manner consistent with their responsibilities under the Charter;
- The permanent members shall be generally guided by the annex to resolution 267 (III) of 14 April 1949 regarding which matters should be deemed procedural;
- In the event of any veto of a draft resolution of the Security Council, the permanent members should accompany that decision with an explanation of such action;
- A high-level working group should consider the question of the veto and submit any agreed recommendations to the General Assembly as soon as it is able, if possible prior to the adoption of Charter amendments.

* Previously issued as A/AC.247/1998/CRP.8.

Annex XV

The veto as a voting instrument in the Security Council: proposal submitted by the former Yugoslav Republic of Macedonia*

Supplement paragraphs 1, 2 and 5 of section I.A of document A/AC.247/1998/CRP.10 with the following text:

> "The permanent members of the Security Council should endeavour not to resort to the veto or to the threat of its use. They should exercise the veto in a manner consistent with their responsibilities under the Charter. The General Assembly should adopt a declaration encouraging Security Council members to make every effort to seek consensus in the Council's decision-making process."

* Previously issued as A/AC.247/1998/CRP.11

Annex XVI

Proposals on decision-making in the Security Council, including the veto, submitted by Australia, Austria, Belgium, Bulgaria, the Czech Republic, Estonia, Hungary, Ireland, Portugal and Slovenia, dated 25 June 1998*

1. Following the recent deliberations in the Open-ended Working Group and the presentation by the Bureau of a revised conference room paper (CRP.10/Rev.1) on decision-making in the Security Council, including the veto, our group has made the following observations:

- The overwhelming majority of United Nations Member States support curtailment of the use of the veto through amendments of the Charter of the United Nations;
- Most States have indicated that they would prefer the use of the veto to be restricted to Chapter VII;
- The existing permanent members do not appear willing at present to accept any Charter-based limitation of their veto powers. Nor do they appear willing to make a political commitment to restrict the use of the veto to Chapter VII;
- General agreement on a comprehensive reform package is unlikely to be achieved without an understanding on the future scope and application of the veto;
- Given concerns of Member States about the current scope and application of the veto, agreement on its possible extension to new permanent members may depend on the willingness of the existing permanent members to accept restrictions on its use.

2. The group believes that steps to curtail the scope and application of the veto should be part of a global approach to the reform of the Security Council. We are conscious of the views and arguments presented on this issue, ranging from total abolition of the veto or, at least, a radical curtailment of its scope and application, to no change whatsoever. While we consider that Charter-based changes to the use of the veto remain an essential objective to be pursued, we have sought to provide some practical suggestions in the proposal set out below. We would emphasize that these fall short of the fuller demands of many delegations, including those belonging to our group. They have as a common element that no amendment to the Charter would be required.

3. The group suggests the following approach:

(a) The General Assembly, in accordance with Article 10 of the Charter, would make specific recommendations aimed at reducing areas where the veto can be applied;

(b) The existing permanent members would state, individually or collectively, in writing, that they would commit themselves to exclude the use of the veto as recommended by the General Assembly.

4. The group, therefore, proposes that the General Assembly, in exercising the authority conferred upon it by Article 10 of the Charter, recommend that:

(a) The permanent members of the Security Council, mindful of the fact that they are acting on behalf of the United Nations as a whole, should exercise the veto only when they consider the question to be of vital importance, taking into account the interest of the

* Previously issued as A/AC.247/1998/CRP.17.

United Nations as a whole, and should state in each case, in writing, on what ground they consider that condition to be present;

(b) The veto should be excluded in respect of matters contained in the annex to General Assembly resolution 267 (III) of 14 April 1949, entitled Decisions deemed procedural, updated as necessary;

(c) The veto should be excluded in respect of recommendations under Articles 4, 5, 6 and 97 of the Charter of the United Nations.

5. The group proposes that further consideration be given to issues on which the veto should not apply, such as:

- Gathering of information and ascertaining facts;
- Calls on parties to settle disputes by peaceful means;
- Entrusting the Secretary-General with certain tasks in dispute settlements;
- Calls on the parties to a conflict to respect human rights and international humanitarian law;
- Steps undertaken by the Secretary-General to mediate and prevent conflicts;
- The dispatch of United Nations observers to observe and report to the Security Council.

Annex XVII

Proposal on the issue of the veto, submitted by Chile, dated 26 June 1998*

Time limits should be established on the right to the veto, which, by its nature, should not be perpetual. In the year 2030, approximately 85 years will have passed since the occurrence of the events that justified its creation. The permanent members of the Security Council should recognize the concept that their right to the veto cannot be eternal and should commit themselves to discussing its abolition in that year or another close to it to be determined by mutual agreement, or should indicate the conditions required for them to accept the abolition of the veto at a given time.

* Previously issued as A/AC.247/1998/CRP.19.

Annex XVIII

Conference room paper submitted by the Bureau of the Open-ended Working Group: sets of outstanding issues related to the expansion of the Security Council, dated 1 May 1998*

I. Total size of the enlarged Security Council:

Option 1: 20;

Option 2: 21;

Option 3: 23;

Option 4: 24;

Option 5: 25;

Option 6: 26.

II. Categories of the membership to be increased:

Option 1: Increase of permanent and non-permanent membership;

Option 2: Increase only of non-permanent membership.

III. Issues related to the increase of permanent and non-permanent membership:

1. Ratio between new permanent and non-permanent seats.
2. Number and distribution of new permanent seats.
3. Rotational arrangements for new permanent seats:

   Option 1: Application of rotational arrangements to all or some of new permanent seats;

   Option 2: Rejection of the idea of rotational arrangements for new permanent seats.
4. Procedure for the designation of new permanent seats.
5. Extension of the veto to the new permanent membership:

   Option 1: No extension of the veto to the new permanent membership;

   Option 2: Full extension of the veto to the new permanent membership;

   Option 3: Other arrangement.
6. Number and distribution of new non-permanent seats.
7. Election of new non-permanent members:

* Previously issued as A/AC.247/1998/CRP.12.

Option 1: Maintaining the established practice for the election of new non-permanent members;

Option 2: Maintaining the established practice for the election of new non-permanent members, with the establishment of rotational arrangements for new non-permanent seats;

Number and selection of States to be subject for rotational arrangements.

IV. Issues related to the increase only of non-permanent membership:

1. Number and distribution of new non-permanent seats.

2. Election of new non-permanent members:

Option 1: Maintaining the established practice for the election of new non-permanent members;

Option 2: Maintaining the established practice for the election of new non-permanent members, with the establishment of rotational arrangements for new non-permanent seats;

Number and selection of States to be subject for rotational arrangements.

Annex XIX

Conference room paper submitted by the Bureau of the Open-ended Working Group: sets of outstanding issues related to the expansion of the Security Council, dated 25 June 1998*

I. Total size of the enlarged Security Council:

Option 1: 20;

Option 2: 21;

Option 3: 23;

Option 4: 24;

Option 5: 25;

Option 6: 26;

Option 7: at least 26[1].

II. Categories of the membership to be increased:

Option 1: Increase of permanent and non-permanent membership;

Option 2: Increase only of non-permanent membership.

III. Issues related to the increase of permanent and non-permanent membership:

1. Ratio between new permanent and non-permanent seats.
2. Number and distribution of new permanent seats.
3. Rotational arrangements for new permanent seats:

   Option 1: Application of rotational arrangements to all or some of new permanent seats;[2]

   Option 2: Rejection of the idea of rotational arrangements for new permanent seats.
4. Procedure for the designation of new permanent seats.
5. Extension of the veto to the new permanent membership.

   Option 1: No extension of the veto to new permanent membership;

   Option 2: Full extension of the new permanent membership;

   Option 3: Other arrangement.
6. Number and distribution of new non-permanent seats.[3]
7. Election of new non-permanent members:

* Previously issued as A/AC.247/1998/CRP.12/Rev.1.

Option 1: Maintaining the established practice for the election of new non-permanent members;

Option 2: Maintaining the established practice for the election of new non-permanent members, with the establishment of rotational arrangements for new non-permanent seats;

Number and selection of States to be subject to rotational arrangements.

IV. Issues related to the increase only of non-permanent membership:

1. Number and distribution of new non-permanent seats.

2. Election of new non-permanent members:

Option 1: Maintaining the established practice for the election of new non-permanent members;

Option 2: Maintaining the established practice for the election of new non-permanent members, with the establishment of rotational arrangements for new non-permanent seats;

Number and selection of States to be subject to rotational arrangements.

Notes

[1] See the annex to document A/AC.247/1998/CRP.2, letter from Bahrain dated 27 January 1998, containing the position of the Group of Arab States on expansion and composition of the Security Council; annex XI to the report of the Working Group to the General Assembly at its fifty-first session (*Official Records of the General Assembly, Fifty-first Session, Supplement No. 47* (A/51/47)), and document A/AC.247/1997/CRP.10, submitted by Egypt, on behalf of the Movement of Non-Aligned Countries, informing the Working Group about the outcome of the meeting of the Ministers for Foreign Affairs of the Movement held at New Delhi regarding the reform of the Security Council.

[2] See document A/AC.247/1998/CRP.16, containing the decision of the Assembly of African Heads of State and Government of the Organization of African Unity on the procedure for rotation of the two permanent seats claimed by Africa in the expanded Security Council. See also the annex to document A/AC.247/1998/CRP.2, letter from Bahrain dated 27 January 1998, containing the position of the Group of Arab States on expansion and composition of the Security Council.

[3] See document A/AC.247/1998/CRP.15, containing the joint position paper of the States members of the Group of Eastern European States eligible for non-permanent membership in the Security Council.

Annex XX

Conference room paper submitted by the Bureau of the Open-ended Working Group: summary of the proposals made on the issue of the extension of the veto to the new permanent members, dated 6 July 1998*

The principal options related to the issue of the extension of the veto to the new permanent members are contained in section III, paragraph 5, of document A/AC.247/1998/CRP.12/Rev.1, entitled "Sets of outstanding issues related to the expansion of the Security Council". However, in the course of the consideration of item 3 of the Working Group's programme of work, entitled "Expansion of the Security Council" (see A/AC.247/1998/CRP.5), a number of more specific proposals and comments on this issue were made. They are summarized below:

1. Extension of the veto to new permanent members should be considered only in the context of curtailment or limitation of its use[1] by the current permanent members.

2. The veto should not be extended to new permanent members.

3. New permanent members should be granted the same prerogatives and powers as the current permanent members.

4. Candidates for permanent membership should indicate their willingness to become new permanent members of the Security Council without the veto.

5. New permanent members should agree not to exercise their veto until a periodic review of the enlarged Security Council has taken place.

6. Decision on the extension of the veto to the new permanent members should be taken once the new permanent members of the Security Council have been elected.

7. A high-level working group of the General Assembly should be established to consider the extent to which the veto should be extended to new permanent members. During this interim period the new permanent members will not individually exercise the veto, and the concurring vote of a determined number of new permanent members (for example four out of five) will be required to arrive at a Security Council decision on matters which are not procedural and taken under Chapter VII of the Charter of the United Nations.

Notes

[1] For concrete proposals to this effect, see document A/AC 247/1998/CRP 10/Rev 1.

* Previously issued as A/AC 247/1998/CRP 12/Rev 1/Add 1

Annex XXI

Letter dated 27 January 1998 from the Permanent Representative of Bahrain in his capacity as Chairman of the Group of Arab States for the month of January 1998 addressed to the President of the General Assembly*

In my capacity as Chairman of the Group of Arab States for January 1998, I have the honour to address you in your capacity as Chairman of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council.

On 12 December 1997 the Chairman of the Group of Arab States for that month addressed a letter to the Chairman of the Group of Asian States for the same month enclosing a four-point working paper as a contribution from the Arab States members of the Group of Asian States to that Group's endeavours on the question of Security Council reform. I have the honour to enclose herewith a copy of the working paper.

I should like to bring to your attention the fact that the points which appear in the working paper are the result of intensive meetings held by the Group of Arab States and represent the position of both States members of the Movement of Non-Aligned Countries and Arab Ministers for Foreign Affairs.

I should be grateful if you would have the present letter and its appendix circulated to the States members of the Working Group, since Arab delegates will raise this issue during the deliberations of that Group.

(*Signed*) Jassim **Buallay**
Ambassador
Permanent Representative
Chairman of the Group of Arab States

Appendix

1. The composition of the Security Council should be democratized to reflect the increase in the number of States Members of the United Nations.

2. The membership of the Security Council should be expanded to at least 26.

3. In the case of an increase in the permanent membership of the Security Council, Asia should be allocated two permanent seats. These two seats will be allotted to countries by a decision of the Group of Asian States itself in accordance with a system of rotation, the modalities of which will be discussed in the context of a working group to be established for that purpose.

4. New permanent members should be granted the same prerogatives and powers as current permanent members. Ultimately, the permanent members should also be nominated by their respective regions and elected by the General Assembly. Such periodic elections of permanent members of the Security Council will, in the final analysis, ensure that the decisions of the Council are less subject to the strictly national interests of its various members.

* Previously issued as A/AC.247/1998/CRP.2.

Annex XXII

Proposals on decision-making in the Security Council and the veto right, submitted by Germany, dated 22 April 1998: voting rights of the new permanent members*

Germany proposes that reform of the Security Council take into consideration the following elements:

- All members of the Security Council should make every effort to seek consensus in the Council decision-making process;
- Permanent members of the Security Council should make a statement, either individually or collectively, that the veto will be exercised in a manner consistent with their responsibilities under the Charter, that they will generally be guided by the annex to resolution 267 (III) of 14 April 1949 regarding which matters should be deemed procedural and that, in the event of any veto of a draft resolution of the Security Council, they should accompany that decision with a formal explanation of such action;
- A high-level working group shall consider the extent to which the veto right is extended to new permanent members;
- During an interim period, the new permanent members will not individually exercise the veto right;
- During that period, the concurring vote of at least four out of five new permanent members will be required to arrive at a Security Council decision on matters which are not procedural and are taken under Chapter VII of the Charter.

* Previously issued as A/AC.247/1998/CRP.9.

Annex XXIII

Joint position paper of the States members of the Group of Eastern European States eligible for non-permanent membership in the Security Council: the matter of allocation of one additional non-permanent seat for this Group in the enlarged membership of the Security Council, submitted by Hungary, as Chairman of the Group of Eastern European States for the month of May 1998*

1. The States members of the Group of Eastern European States, eligible for non-permanent membership of the Security Council, attach great importance to the issue of equitable representation on and increase in the membership of the Security Council and other matters related to the Security Council.

2. It is the strong common position of these Member States that any increase in the non-permanent membership of the Security Council should ensure an enhanced representation of the Group of Eastern European States by the allocation to the said Group of one additional non-permanent seat in the enlarged Security Council.

3. In support of their view, these Member States wish to emphasize the fact that, since 1991, the Group of Eastern European States has more than doubled its membership and that its present 21 States members constitute more than 10 per cent of the total United Nations membership.

* Previously issued as A/AC.247/1998/CRP.15.

Annex XXIV

Decision of the Assembly of Heads of State and Government of the Organization of African Unity on the procedure for rotation of the two permanent seats claimed by Africa, transmitted by Senegal*

AHG/Dec.6 (XXXIV): decision on the procedure for rotation of the two seats claimed by Africa in the expanded Security Council**

The Assembly of Heads of State and Government of the Organization of African Unity, meeting at its thirty-fourth session in Ouagadougou from 8 to 10 June 1998,

Considering its declaration AHG/Dec.3 (XXXIII) of 4 June 1997 on the reform of the Security Council,

Having reviewed the report on the follow-up to that declaration submitted by the Group of African States in the United Nations and the proposals contained therein,

Decides to adopt the following procedure for rotation of the two permanent member seats claimed by Africa in the expanded Security Council:

(i) Nomination of candidates in each of the five African subregions;

(ii) Preparation of a list of candidates based on the names thus submitted;

(iii) Establishment of a pool from which the Heads of State and Government will choose two candidates to fill the two seats. The two candidates must come from two different subregions to be designated by the Heads of State and Government;

(iv) Adoption of the same procedure when selecting African candidates for subsequent selections in the remaining subregions;

(v) Determination by the Heads of State and Government of the duration of the mandate of the two candidates elected as permanent members of the expanded Security Council.

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* Previously issued as A/AC.247/1998/CRP.16 and Corr.1.

** Translation by the United Nations Secretariat. The official Organization of African Unity text was not available.

Annex XXV

Conference room paper submitted by the Bureau of the Open-ended Working Group: summary of proposals made on the periodic review of the enlarged Security Council, dated 20 May 1998*

A. General proposals

1. On earlier occasions the Open-ended Working Group had discussed the possibility of a periodic review of the composition, size and decision-making procedures of the Security Council and other matters related to the Council. In the opinion of some delegations, such a periodic review could be an important element in facilitating efforts towards reaching general agreement on the issues within the mandate of the Working Group. A number of delegations further pointed out that the concept of review had been an integral part of the United Nations since its establishment and could be activated by invoking Article 109 of the Charter. Some delegations declared that a periodic review of the structure and functioning of the Security Council was necessary in order to enable it to respond better and more effectively to the new challenges in international relations, especially with regard to international peace and security.

2. It has been suggested that in the event that any rotational arrangements were adopted, the lists of rotating countries could be reviewed during the periodic review process. The assessment should depend essentially on the degree to which a country had managed to honour its obligations and met the increased responsibilities stemming from the rotational arrangement.

3. Another view was expressed that a review process would be unnecessary and that such a review would be tantamount to an admission of failure in the reform process. Furthermore, it would also bring about a situation in which some Member States would be perpetually conducting electoral campaigns.

B. Proposals on the periodicity of the review process

4. Various proposals have been made about the periodicity of the review. There were suggestions that the first review should take place 10 to 20 years after the conclusion of the present reform exercise. There should be subsequent periodic reviews thereafter every 10 to 12 or 15 to 20 years. One solution would be to undertake the periodic review at a time to coincide with the expiration of the tenure of members of those regions opting for regional rotational arrangements.

5. Furthermore, the periodic review should automatically be included in the agenda of the General Assembly. The review process should be concluded within two years.

C. Proposals on the scope of the review

6. Proposals were made that the scope of the review process should be comprehensive in order to address all aspects of reform, including the status of new permanent members

* Previously issued as A/AC.247/1998/CRP.13.

as well as the question of the veto and accountability. The review process should also take into account the question of under-representation as well as over-representation of any region on the Council in both permanent and non-permanent categories.

7. The argument has been made that the periodic review should not cover the rights and obligations held by the original five permanent members.

8. Proposals have also been made to the effect that, in order to facilitate the solution of the present reform process, the veto should be discussed only during the periodic review. In this respect two aspects have been mentioned. Firstly, if the veto were to be extended to the new permanent members they would agree not to exercise their right until the review took place. Secondly, the time leading up to the first review could be used to prepare for a more consolidated arrangement, which should include recommendations on the veto rights of the original permanent members and that of the new permanent members with a view to bridging the gap between them.

D. Proposals on decision-making in the review process

9. Proposals were made that the review process should not be subject to the use of the veto (by the original permanent members and/or the new permanent members).

Annex XXVI

Conference room paper submitted by the Bureau of the Open-ended Working Group: summary of proposals made on the periodic review of the enlarged Security Council, dated 25 June 1998*

A. General proposals

1. On earlier occasions the Open-ended Working Group had discussed the possibility of a periodic review of the composition, size and decision-making procedures of the Security Council and other matters related to the Council. In the opinion of some delegations, such a periodic review could be an important element in facilitating efforts towards reaching general agreement on the issues within the mandate of the Working Group. A number of delegations further pointed out that the concept of review had been an integral part of the United Nations from its establishment and could be activated by invoking Article 109 of the Charter. Some delegations declared that a periodic review of the structure and functioning of the Security Council was necessary in order to enable it to respond better and more effectively to the new challenges in international relations, especially with regard to international peace and security.

2. It has been suggested that in the event that any rotational arrangements were adopted, the lists of rotating countries could be reviewed during the periodic review process. The assessment should depend essentially on the degree to which a country has managed to honour its obligations and met the increased responsibilities stemming from the rotational arrangement.

3. Another view was expressed that a review process would be unnecessary and argued that such a review would be tantamount to an admission of failure in the reform process. Furthermore, it would also bring about a situation in which some Member States would be perpetually conducting electoral campaigns.

B. Proposals on the periodicity of the review process

4. Various proposals have been made about the periodicity of the review. There were suggestions that the first review should take place 10 to 20 years after the conclusion of the present reform exercise. There should be subsequent periodic reviews thereafter every 10 to 12 or 15 to 20 years. One solution would be to undertake the periodic review at a time to coincide with the expiration of the tenure of members of those regions opting for regional rotational arrangements.

5. Furthermore, the periodic review should automatically be included on the agenda of the General Assembly. The review process should be concluded within two years.

C. Proposals on the scope of the review

6. Proposals were made that the scope of the review process should be comprehensive in order to address all aspects of reform, including the status of new permanent members

* Previously issued as A/AC.247/1998/CRP.13/Rev.1.

as well as the question of the veto and accountability. The review process should also take into account the question of under-representation as well as over-representation of any region on the Council in both permanent and non-permanent categories.

7. With regard to the status of new permanent members of the Security Council during the review process, two proposals were made. One proposal was that, in order to retain their status, countries having been elected as new permanent members of the Council would need to secure, at the review process, the support of at least a two-thirds majority of the membership of the United Nations. The other was that such countries would continue as permanent members unless otherwise decided by a two-thirds majority of the membership of the United Nations.

8. A proposal has been made that the periodic review should not cover the rights and obligations held by the original five permanent members.

9. Proposals have also been made to the effect that, in order to facilitate the solution of the present reform process, the veto should be discussed only during the periodic review. In this respect, two aspects have been mentioned. Firstly, if the veto were to be extended to the new permanent members they would agree not to exercise their right until the review takes place. Secondly, the time leading up to the first review could be used to prepare for a more consolidated arrangement which should include recommendations on the veto rights of the original permanent members and that of the new permanent members with a view to bridging the gap between them.

D. Proposals on decision-making in the review process

10. Proposals were made that the review process should not be subject to the use of the veto by the original permanent members and/or the new permanent members.

Annex XXVII

Proposed amendment to document A/AC.247/1998/CRP.13 on the periodic review of the enlarged Security Council, submitted by the Republic of Korea, dated 25 June 1998*

Summary of proposals made on the periodic review of the enlarged Security Council

Proposal: to reflect the following in paragraph C or D of the above-mentioned document

1. Emphasis has been expressed on the need to upgrade the majority required for the extension of new permanent members at the time of review. In particular, it has been strongly suggested that the threshold level for decisions on the extension of new permanent members be upgraded to as near as possible to the level applied during initial elections, namely, at least the two-thirds majority of all members of the United Nations. This upgrade will be all the more necessary if periodic review is genuinely intended as a mechanism to ameliorate some of the shortcomings inherent in the increase of permanent membership by providing the general membership with a reasonable opportunity to replace some or all new permanent members. The upgraded level of majority required for the extension of new permanent members during the review period can be incorporated into the new provisions of the Charter of the United Nations to be created with respect to the periodic review of the enlarged Security Council.

Reasons

2. A truly effective mechanism for substantive review requires, among other things, that the review period be as reasonably brief as possible and its provisions as rigorous as those applied during the initial elections for new permanent members. But the current majority level for decisions on the extension of new permanent members at the time of review falls far short of justifying the claim for a substantive review as a mechanism to rectify the democratic deficits associated with a permanent increase, namely, depriving the general membership of opportunities to replace them.

3. The amendment to Article 23 of the Charter of the United Nations, which contains the country names of the permanent members, will require the support of a two-thirds majority of all members if undertaken through Article 108 of the Charter. Therefore, new permanent members will retain their status if they are able to secure a mere one-third majority to block the formation of a two-thirds majority.

4. In tandem with the premium that new permanent members will enjoy as incumbents, this low level of support required will virtually ensure the automatic extension of new permanent members, rendering a periodic review meaningless. This clearly runs counter to the thesis that new permanent members will not be eternal, but replaceable, as maintained by some countries aspiring to permanent membership. Therefore, it is strongly urged that serious consideration be given to the need to upgrade the majority level required for the extension of new permanent members as near as possible to the level applied during the initial elections.

* Previously issued as A/AC.247/1998/CRP.18.

Annex XXVIII

Conference room paper submitted by the Bureau of the Open-ended Working Group: previous discussions on the issue of the majority required for taking decisions on Security Council reform, dated 27 May 1998*

1. Final decision on the question of equitable representation on and increase in the membership of the Security Council and other matters related to the Security Council

The final decision on the question of equitable representation on and increase in the membership of the Security Council and other matters related to the Security Council involving amendments to the Charter shall be taken in accordance with Article 108 of the Charter.

2. General agreement

(a) When this matter was discussed in the past, reference was made to the enabling resolution 48/26 of 3 December 1993 and its last preambular paragraph, which reads: "Mindful of the importance of reaching general agreement";

(b) Assumptions had been made that any decision on the issues covered by the mandate of the Open-ended Working Group should enjoy as broad support as possible by the United Nations membership;

(c) Proposals on specific numerical majorities had been advanced by some delegations.

3. Adoption of any eventual resolution prior to the approval of a final package

Proposals have been made on the adoption of any resolution prior to the approval of a final package:

(a) Any resolution with Charter amendment implications must be adopted by a two-thirds majority of the United Nations membership, as described in Article 108 of the Charter;

(b) It is necessary to comply faithfully with the provisions of Article 108 of the Charter with respect to any resolution with Charter amendment implications;

(c) Decisions on important questions of equitable representation on and increase in the membership of the Security Council and other matters related to the Council shall be made by a two-thirds majority of the members present and voting.

* Previously issued as A/AC.247/1998/CRP.14.

Annex XXIX

Conference room paper submitted by the Bureau of the Open-ended Working Group: summary of the proposals on the issue of the majority required for taking decisions on Security Council reform, dated 2 July 1998*

A. Decisions of the General Assembly on the question of equitable representation on and increase in the membership of the Security Council and other matters related to the Security Council

1. Any decision of the General Assembly on the question of equitable representation on and increase in the membership of the Security Council and other matters related to the Security Council containing proposals for amendments to the Charter shall be taken in accordance with Article 108 of the Charter.

2. In the event that the decision described above is preceded by draft resolutions bearing on the question of equitable representation on and increase in the membership of the Security Council and other matters related to the Security Council, the following approaches were suggested with regard to the majority required in the Assembly's decision-making process:

(a) Any resolution with Charter amendment implications must be adopted by the two-thirds majority referred to in Article 108 of the Charter;

(b) The adoption of any resolution with Charter amendment implications needs to comply faithfully with the provisions of Article 108 of the Charter;

(c) Any decision on important questions of equitable representation on and increase in the membership of the Security Council and other matters related to the Council shall be made by a two-thirds majority of the members present and voting, as prescribed in Article 18, paragraph 2, of the Charter.

B. General agreement

3. When this matter was discussed in the past, reference was made to General Assembly resolution 48/26 of 3 December 1993 and its last preambular paragraph, which reads: "*Mindful* of the importance of reaching general agreement".

4. Significant convergence of views has emerged that any decision of the General Assembly on the issue covered by the mandate of the Open-ended Working Group should enjoy as broad support as possible by the United Nations membership.

5. Proposals on specific numerical majorities were advanced by some delegations.

* Previously issued as A/AC.247/1998/CRP.14/Rev.1.

Annex XXX

Paper transmitted by Peru to the Open-ended Working Group, dated 17 July 1998: majority required for the adoption of decisions on the question of equitable representation on and increase in the membership of the Security Council and other matters related to the Security Council and convening of a special session of the General Assembly to decide on this issue, among other matters*

1. The Permanent Mission of Peru attaches great importance to the question of equitable representation on and increase in the membership of the Security Council and other matters related to the Security Council, both in view of the great importance of the Council and because an increase in its membership would give it greater legitimacy, while the reform of its working methods is essential to the role which it is called upon to play during the current post-cold-war period.

2. Both substantive and procedural proposals concerning the possibility of increasing the number of permanent and non-permanent members of the Council have been made in the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters related to the Security Council.

3. It is important to bear in mind that the status of permanent member provided for in the Charter was not conferred by election. Both the status of permanent member and the identification by name of the States parties to the Charter which enjoy such status were determined by the signing of the Charter, which was officially concluded by the plenipotentiaries to the 1945 San Francisco conference. In addition to the status of permanent member, the many prerogatives enjoyed by those members, such as the requirement of unanimity for the adoption of Council resolutions and for the approval of any amendment to the Charter, were also established by signature of the Charter.

4. It would therefore be inconsistent to propose action on any draft resolution which could, if voted upon, result in the substantial alteration of the status of certain States parties to the Charter so that they would no longer be subject to election.

5. It should be recalled that Article 23, paragraph 2, of the Charter stipulates that a retiring member of the Council shall not be eligible for immediate re-election, thereby precluding the creation of any form of semi-permanent status.

6. The Permanent Mission of Peru considers that any decision to increase the number of permanent members of the Security Council would constitute not merely an amendment to the Charter, but a constitutional reform of the United Nations.

7. It therefore believes that draft resolutions of a procedural nature are inseparable from substantive decisions and should, *ipso facto*, be subject to the same procedures as the adoption of such decisions.

8. The possibility of a decision on an increase of the number of permanent members is more closely related to the provisions of Article 109 than to those of Article 108, despite

* Previously issued as A/AC.247/1998/CRP.23 and Corr.1

the broader purpose of the former. The Working Group has exhaustively explored various modalities and substantive and procedural proposals for a possible increase in the number of permanent members of the Council. With respect to modalities, a majority of the Group's members have supported strict adherence to Article 108 of the Charter, which calls for a two-thirds majority of the Member States, not merely of those present and voting.

9. The Permanent Mission of Peru takes the view that, in order to be valid, any procedure which would change the current status of a Member State to that of permanent member would require a decision by a greater than two-thirds majority if, for understandable reasons, consensus could not be achieved. A number of representatives had this in mind in preparing the draft of General Assembly resolution 48/26. Indeed, it would be unlawful, and therefore unacceptable, to attempt to make a qualitative change of this nature through rounds of voting, which is the procedure followed in the case of the election of non-permanent members of the Council. The establishment of a specific majority greater than two thirds yet less than unanimity would always be controversial; but, then, in logical terms the very principle of legitimacy which confers such broad prerogatives as those granted by the Charter in 1945 would also always be controversial.

10. Although considerable time has been spent in discussing aspects of Security Council reform, new obstacles have recently compounded the difficulty of achieving general agreement on a possible increase in the number of permanent members. They include major declarations to the effect that only the inclusion of additional members in the Security Council would be acceptable. This would make representativeness even more of an issue and create a greater imbalance in the relationship between permanent and non-permanent members, further eroding the legitimacy of the Council, a body which, in the discharge of its responsibilities, takes decisions on behalf of all Member States. Accordingly, it would seem inappropriate to take a decision that does not contain all the elements needed for a comprehensive reform of the Security Council: transparency, legitimacy, efficiency, non-discrimination, equitable geographical distribution and representation and full capacity to ensure peace and security in the current international environment of the post-cold-war period, in accordance with the Charter and with international law.

11. Given the fundamental importance of this matter, for which no provision is made in the Charter and which is without substantive or procedural precedent, and in the light of the possibility that action might be sought on a draft resolution which implicitly or indirectly proposes an increase in the number of permanent members of the Council, it is of the utmost importance that the President of the General Assembly – who also presides over the Open-ended Working Group – should be consulted and informed in a timely manner so that the Assembly can decide whether to convene a special session, at which, in full possession of the facts and with the participation of the Ministers for Foreign Affairs, it will consider all the substantive and procedural issues discussed by the Working Group and determine whether agreement can be reached on the question.

Annex XXXI

Letter dated 10 July 1998 transmitted by Egypt in its capacity as coordinator of the Movement of Non-Aligned Countries: paragraphs related to the reform of the Security Council, which appeared in the final communiqué of the Ministerial Meeting of the Coordinating Bureau of the Movement of Non-Aligned Countries [original paragraphs 53 through 65] held in Cartagena de Indias, Colombia, on 19 and 20 May 1998*

1. The Ministers for Foreign Affairs and Heads of Delegation comprehensively reviewed discussions on the reform and restructuring of the Security Council, in the light of the position papers adopted by the Movement on 13 February 1995 and 20 May 1996, the negotiating paper of the Movement of Non-Aligned Countries dated 11 March 1997, the decisions of the Cartagena Summit, the twelfth Ministerial Conference held in New Delhi from 7 to 8 April 1997 and those adopted on this matter at the Ministerial Meeting in New York on 25 September 1997.

2. In conformity with the New Delhi declaration regarding the necessity of attaining general agreement, the Ministers for Foreign Affairs and heads of Delegation reaffirmed their determination that any resolution with amendment implications for the Charter of the United Nations must be adopted by a vote of two thirds of the members of the General Assembly, as referred to in Article 108 of the Charter.

3. The Ministers for Foreign Affairs and Heads of Delegation recalled that discussions in the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters related to the Security Council have shown that, while a convergence of views has emerged on a number of issues, important differences still exist on many others. They noted that the Open-ended Working Group has resumed its discussions and underlined the need for the Movement to maintain its unity and solidarity on this critical issue. They reaffirmed that the Movement should, in the ensuing negotiations, continue to pursue directives given by the Cartagena Summit and contained in the Movement's position papers. The Movement would be guided by the considerations set out in paragraphs 4 through 8 below in approaching the issue of Security Council reform in discussions at the United Nations.

4. Both reform and expansion of the Security Council should be considered as integral parts of a common package, taking into account the principle of sovereign equality of States and equitable geographical distribution, as well as the need for transparency, accountability and democratization in the working methods and procedures of the Security Council, including its decision-making process.

5. The non-aligned countries are grossly under-represented in the Council. This under-representation should, therefore, be corrected by enlargement of the Security Council, which should enhance the credibility of the Council, to reflect the universal character of the world body and to correct existing imbalances in the composition of the Security Council in a comprehensive manner.

6. The extent, nature and modalities of the expansion of the Security Council should be determined on the basis of the principles of equitable geographical distribution and sovereign equality of States. There shall be no partial or selective expansion or enlargement of the

* Previously issued as A/AC.247/1998/CRP.21.

membership of the Security Council to the detriment of the developing countries. Attempts to exclude the Movement of Non-Aligned Countries from any enlargement in the membership of the Council would be unacceptable to the Movement.

7. Increase in the membership of the Security Council should be by not less than 11 members, based on the principles of equitable geographical distribution and sovereign equality of States.

8. The negotiation process should be truly democratic and transparent, and negotiations on all aspects should be held in all cases, in an open-ended setting.

9. The Ministers for Foreign Affairs and Heads of Delegation reaffirmed that efforts to restructure the Security Council shall not be subject to any imposed time-frame. While recognizing the importance of treating this issue as a matter requiring urgent attention, no effort should be spared not to decide this issue before general agreement is reached.

10. The Ministers for Foreign Affairs and Heads of Delegation reaffirmed the Movement of Non-Aligned Countries proposal that if there is no agreement on other categories of membership, expansion should take place for the time being, only in the non-permanent category.

11. The Ministers for Foreign Affairs and Heads of Delegation reaffirmed the proposal of the Movement that the veto should be curtailed, with a view to its elimination, and that the Charter should be amended so that, as a first step, the veto power should only apply to actions taken under Chapter VII of the Charter.

12. The Ministers for Foreign Affairs and Heads of Delegation underlined the need for a coherent and coordinated approach by the Movement in the ensuing discussions in the Open-ended Working Group. Mindful of the importance of reaching general agreement, as reflected, *inter alia*, in General Assembly resolution 48/26 of 3 December 1993, they called for fuller discussions of various proposals submitted to the Working Group.

13. The Ministers for Foreign Affairs and Heads of Delegation stressed the importance of enhancing the transparency of the Security Council through the improvement of its working methods and its decision-making process. They called on the Open-ended Working Group to agree on and the General Assembly to recommend specific and substantive measures to be implemented by the Security Council based on the measures proposed in the negotiating paper of the Movement on cluster II issues. They also urged the Security Council to institutionalize such measures and stressed that a commitment to institutionalize them should be an element of a package agreement on the reform of the Security Council.

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